

D R A F T

SUMMARY

Authorizes Director of Department of Consumer and Business Services to conduct public meeting on insurer's request for approval of premium rates for individual or small employer health benefit plan.

Requires director to conduct public meeting on rate request if filing proposes seven percent or greater increase in rates and affects 1,000 or more policyholders. Requires director to certify intervenor that meets specified criteria for purposes of proceedings. Authorizes director to conduct public hearing and requires public hearing on request of certified intervenor. Provides that insurer has burden of proving that rate filing satisfies requirements. Requires that director act on rate filing by 90th day after beginning of public comment period or filing is deemed disapproved.

A BILL FOR AN ACT

1
2 Relating to health insurance rate review; amending ORS 742.003, 743.018,
3 743.019 and 743.020.

4 Whereas the State of Oregon, through its regulation of health insurance,
5 has an obligation to balance the needs of individual and small group
6 policyholders and the needs of insurers; now, therefore,

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

8 **SECTION 1.** ORS 743.018 is amended to read:

9 743.018. (1) Except for group life and health insurance, and except as
10 provided in ORS 743.015, every insurer shall file with the Director of the
11 Department of Consumer and Business Services all schedules and tables of
12 premium rates for life and health insurance to be used on risks in this state,
13 and shall file any amendments to or corrections of such schedules and tables.
14 Premium rates are subject to approval, disapproval or withdrawal of ap-
15 proval by the director as provided in ORS 742.003, 742.005 and 742.007.

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

5 (a) Health benefit plans for small employers.

6 (b) Portability health benefit plans.

7 (c) Individual health benefit plans.

8 (3) The director may by rule:

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

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

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

18 (a) Actuarially sound;

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

20 and

21 (c) Based upon reasonable administrative expenses.

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

26 (a) The insurer's financial position, including but not limited to profit-
27 ability, surplus, reserves and investment savings.

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

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

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

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

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

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

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

12 (6) With the written consent of the insurer, the director may modify a
13 schedule or table of premium rates filed in accordance with subsection (1)
14 of this section.

15 (7) The requirements of this section do not supersede other provisions of
16 law that require insurers, health care service contractors or multiple em-
17 ployer welfare arrangements providing health insurance to file schedules or
18 tables of premium rates or proposed premium rates with the director or to
19 seek the director's approval of rates or changes to rates.

20 **SECTION 2.** ORS 743.019 is amended to read:

21 743.019. (1) When an insurer files **for approval by the Director of the**
22 **Department of Consumer and Business Services** a schedule or table of
23 premium rates for **an** individual, portability or small employer health [*in-*
24 *surance under ORS 743.018*] **benefit plan, as defined in ORS 743.730**, the
25 director [*of the Department of Consumer and Business Services*] shall open a
26 30-day public comment period on the rate filing that begins on the date the
27 insurer files the schedule or table of premium rates. The director shall post
28 all comments to the website of the Department of Consumer and Business
29 Services without delay.

30 **(2) The director may conduct a public meeting, in accordance with**
31 **the provisions of ORS 192.610 to 192.690, on any filing with respect to**

1 an individual or small employer health benefit plan submitted under
2 subsection (1) of this section.

3 (3)(a) The director shall conduct a public meeting, in accordance
4 with the provisions of ORS 192.610 to 192.690, on any filing with respect
5 to an individual or small employer health benefit plan submitted under
6 subsection (1) of this section if:

7 (A) The filing proposes an average annual increase to the premium
8 rates charged by the insurer of seven percent or greater; and

9 (B) The rate increase affects 1,000 or more policyholders.

10 (b) The purpose of a public meeting conducted under this subsection
11 is to obtain additional information necessary for the director to de-
12 termine if the proposed premium rates meet the requirements of ORS
13 743.018 (4) and that there are no grounds for disapproval under ORS
14 742.005. An actuary for the insurer or other representative of the
15 insurer who is knowledgeable about the details of the filing must ap-
16 pear at the public meeting to answer questions.

17 (4) The director shall certify any of the following individuals or
18 groups to formally participate in any proceedings under this section
19 as intervenors:

20 (a) A group of 10 or more policyholders who will be affected by the
21 premium rates in the filing and who jointly apply, in writing, to in-
22 tervene.

23 (b) An association with 10 or more members who are policyholders
24 who will be affected by the premium rates in the filing and who jointly
25 apply, in writing, to intervene.

26 (c) An office of health insurance consumer assistance or ombuds-
27 man described in 42 U.S.C. 300gg-93 or similar consumer assistance
28 organization or ombudsman.

29 (5) A certified intervenor shall have access to all information de-
30 scribed in ORS 743.018 (3), 743.737 (10) and 743.760 (10) to the same ex-
31 tent as and subject to no greater restrictions on access than are

1 **imposed on the department. An insurer must respond to any requests**
2 **for information from the director or a certified intervenor no later**
3 **than the 20th day after the beginning of the public comment period**
4 **on the filing.**

5 **(6) No later than 10 days after the close of the public comment pe-**
6 **riod and with at least 10 days' advance notice to the insurer, the di-**
7 **rector may, or upon the request of a certified intervenor shall, conduct**
8 **a public hearing. At any public hearing held under this subsection, the**
9 **insurer shall have the burden of proving that the proposed premium**
10 **rates meet the requirements of ORS 743.018 (4) and that there are no**
11 **grounds for disapproval under ORS 742.005.**

12 **[(2)] (7) The director shall give written notice to an insurer approving or**
13 **disapproving a rate filing or, with the written consent of the insurer, modi-**
14 **fying a rate filing submitted under ORS 743.018 no later than [10 business**
15 **days after the close] 90 days after the beginning of the public comment**
16 **period if the insurer has provided all necessary information to the di-**
17 **rector. The notice shall comply with the requirements of ORS 183.415. If**
18 **the director does not approve or modify a rate filing by the 90th day**
19 **after the beginning of the public comment period, the rate filing shall**
20 **be deemed disapproved.**

21 **(8) The director shall give written notice of the approval, modifica-**
22 **tion or disapproval of a rate filing to:**

23 **(a) Any certified intervenors in the proceedings; and**

24 **(b) Any person that submitted public comments during the public**
25 **comment period for the filing.**

26 **(9) A certified intervenor shall be reimbursed by the insurer for**
27 **reasonable expenses incurred for expert testimony presented at pro-**
28 **ceedings under this section, not to exceed \$10,000 for each filing.**

29 **SECTION 3. ORS 743.020 is amended to read:**

30 **743.020. An insurer licensed by the Department of Consumer and Business**
31 **Services shall include [in] with any [rate filing under ORS 743.018] schedule**

1 **or table of premium rates filed for approval by the Director of the**
2 **Department of Consumer and Business Services** with respect to individ-
3 ual and small employer health [*insurance policies*] **benefit plans, as defined**
4 **in ORS 743.730**, a statement of administrative expenses in the form and
5 manner prescribed by the department by rule. The statement must include,
6 but is not limited to:

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

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

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

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

18 (a) Forms of unique character which are designed for and used with re-
19 spect to insurance upon a particular risk or subject;

20 (b) Forms issued at the request of a particular life or health insurance
21 policy owner or certificate holder and which relate to the manner of dis-
22 tribution of benefits or to the reservation of rights and benefits thereunder;

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

26 (d) Forms complying with specific requirements regarding delivery or is-
27 suance for delivery in this state established by the director by rule.

28 (2) **Except as provided in ORS 743.019 with respect to rate filings**, the
29 director shall within 30 days after the filing of any [*such*] form approve or
30 disapprove the form. The director shall give written notice of [*such action*]
31 **approval or disapproval** to the insurer proposing to deliver [*such*] **the** form

1 and when a form is disapproved the notice shall [*show wherein such*] **explain**
2 **why the** form does not comply with the law.

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

8 (4) The director may at any time request an insurer to furnish the direc-
9 tor a copy of any form exempted under subsection (1) of this section.

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