A-Engrossed
Senate Bill 413

Ordered by the Senate March 28
Including Senate Amendments dated March 28

Sponsored by Senator SHIELDS; Senator EDWARDS (Presession 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.

Requires insurer offering health benefit plans to provide annual notice to policyholders and certificate holders of specified information about Department of Consumer and Business Services' rate review process and consumer advocacy unit.

Limits public comment period for premium rate filings by individual, portability or small employer health insurers to health benefit plans offered by those insurers.

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

Requires Director of Department of Consumer and Business Services to post to website of Department of Consumer and Business Services detailed explanation for approval of any health insurance rate filing that increases rates. Makes consideration of certain criteria related to approval of such rate increases mandatory.

Declares emergency, effective October 1, 2013.

A BILL FOR AN ACT

Relating to health insurance rate review; creating new provisions; amending ORS 742.003, 743.018 and 743.019; and declaring an emergency.

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

SECTION 1. Section 2 of this 2013 Act is added to and made a part of the Insurance Code.

SECTION 2. (1) At least annually, an insurer offering health benefit plans, as defined in ORS 743.730, to individuals and small employers shall send a notice to each individual and small employer policyholder and certificate holder that contains:

(a) Information about how the policyholder or certificate holder may receive notice from the Department of Consumer and Business Services about rate filings and public hearings on rate filings.

(b) The department's website address and the toll-free telephone number of the department's consumer advocacy unit.

(2) An insurer may satisfy the requirements of this section by:

(a) Including the information, in a prominent manner, in a mailing or an electronic communication of other insurance-related information to the policyholder or certificate holder, including but not limited to a policy renewal notice or enrollment confirmation; or

(b) Sending a separate notice that need not include information related to the policy or certificate.

SECTION 3. ORS 743.019 is amended to read:

743.019. (1) When an insurer files **for approval by the Director of the Department of Consumer and Business Services** a schedule or table of premium rates for **an** individual, portability

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.

or small employer health [*insurance under ORS 743.018*] **benefit plan as defined in ORS 743.730**, the director [*of the Department of Consumer and Business Services*] shall open a 30-day public comment period on the rate filing that begins on the date the insurer files the schedule or table of premium rates. The director shall post all comments to the website of the Department of Consumer and Business Services without delay.

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

(3) If the director approves a rate filing that increases rates above the rates previously approved by the director for an individual or small employer health benefit plan, the director shall make available on the department's website a detailed explanation of how the increased rates:

(a) Meet standards described in ORS 743.018 (4) and (5); and

(b) Are not subject to disapproval under ORS 742.005.

SECTION 4. ORS 743.018 is amended to read:

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

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

(a) Health benefit plans for small employers.

(b) Portability health benefit plans.

(c) Individual health benefit plans.

(3) The director may by rule:

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

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

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

(a) Actuarially sound;

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

(c) Based upon reasonable administrative expenses.

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

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

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

(c) Historical and projected loss ratio between the amounts spent on medical services and

earned premiums.

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

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

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

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

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

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

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

SECTION 5. ORS 742.003 is amended to read:

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

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

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

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

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

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

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

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

SECTION 6. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect October 1, 2013.
