

Senate Bill 416

Sponsored by Senator SHIELDS (at the request of Autism Society of Oregon) (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 Department of Consumer and Business Services to provide complaint process for challenging actions or credentials of independent review organization and to enforce requirements for external reviews. Allows department to reassign adverse benefit determination dispute to another independent review organization if department finds that independent review organization has failed to follow legal requirements. Requires Director of Department of Consumer and Business Services to impose minimum civil penalty on insurer that does not comply with independent review organization's reversal of adverse benefit determination. Applies to contracts entered into on or after effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to external review by independent review organization of adverse benefit determination by
3 health insurer; creating new provisions; amending ORS 743.858 and 743.863; and declaring an
4 emergency.

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

6 **SECTION 1.** ORS 743.858 is amended to read:

7 743.858. (1) The Director of the Department of Consumer and Business Services shall contract
8 with independent review organizations as provided in this section for the purpose of providing ex-
9 ternal review under ORS 743.857. The director may have contracts with no more than five inde-
10 pendent review organizations at any one time. Contracts shall be let with independent review
11 organizations on a biennial basis. A contract may be renewed if both parties agree.

12 (2) The director shall seek public comment when the director proposes to enter into a contract
13 with an independent review organization or proposes to renew or not renew a contract.

14 (3) When evaluating proposals to contract with independent review organizations, the director
15 shall consider factors that include but are not limited to relative expertise, professionalism, quality
16 of compliance with the rules [*established*] **adopted** under subsection (4) of this section, cost and re-
17 cord of past performance.

18 (4) The director shall adopt rules governing independent review organizations, their composition
19 and their conduct **to ensure that external reviews are conducted in accordance with ORS**
20 **743.857 and 743.862 and this section**. The rules shall include but need not be limited to:

21 (a) Professional qualifications of health care providers, physicians or contract specialists making
22 external review determinations;

23 (b) Criteria requiring independent review organizations to demonstrate protections against bias
24 and conflicts of interest;

25 (c) Procedures for conducting external reviews;

26 (d) Procedures for complaint investigations;

27 (e) Procedures for ensuring the confidentiality of medical records transmitted to the independent

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 review organizations for use in external reviews;

2 (f) Fairness of procedures used by independent review organizations;

3 (g) Fees for external reviews;

4 (h) Timelines for decision making and notice to the parties; and

5 (i) Quality assurance mechanisms to ensure timeliness and quality of review.

6 (5) The director shall develop procedures for assigning cases filed by enrollees to independent
7 review organizations under contract with the director. The cases shall be assigned on a random
8 basis. The procedures shall allow an insurer only one opportunity to reject the assignment of an
9 independent review organization to a particular case.

10 **(6)(a) An insurer, enrollee or provider may file a complaint with the Department of**
11 **Consumer and Business Services if the insurer, enrollee or provider believes that an inde-**
12 **pendent review organization has failed to comply with ORS 743.857 or 743.862 or this section**
13 **or has failed to comply with rules adopted by the director to carry out the provisions of ORS**
14 **743.857 or 743.862 or this section. No later than 45 days after receipt of the complaint, the**
15 **department shall notify the complainant:**

16 **(A) Of the results of the department's investigation of the complaint and of any action**
17 **the department has taken or intends to take; or**

18 **(B) If the department has not completed the investigation, of the status of the investi-**
19 **gation, the results thus far, the reasons for the delay in completing the investigation and a**
20 **timeline for completing the investigation.**

21 **(b) The department shall send the notification described in paragraph (a) of this sub-**
22 **section every 45 days until the department makes a final determination on the merits of the**
23 **complaint.**

24 **(c) If the department finds that the independent review organization has failed to comply**
25 **with ORS 743.857 or 743.862 or this section or has failed to comply with rules adopted by the**
26 **director to carry out the provisions of ORS 743.857 or 743.862 or this section, the department**
27 **may reassign the adverse benefit determination dispute to a different independent review**
28 **organization for de novo review. The department may also take any other appropriate action**
29 **including, but not limited to, terminating the contract of the independent review organiza-**
30 **tion that was the subject of the complaint.**

31 **SECTION 2.** ORS 743.863 is amended to read:

32 743.863. (1) An insurer shall comply in a timely manner with a decision of an independent review
33 organization under ORS 743.862 that reverses, in whole or in part, an adverse benefit determination.
34 If an insurer fails to comply with the decision, the Director of the Department of Consumer and
35 Business Services [may] **shall** impose on the insurer a civil penalty of **not less than \$100,000 and**
36 **not more than \$1 million.**

37 (2) A decision of an independent review organization is admissible in any legal proceeding in-
38 volving the insurer or the enrollee and involving the disputed issues subject to external review.

39 (3) The sanctions under subsection (1) of this section and the remedies under subsection (2) of
40 this section are in addition to and not in lieu of other sanctions, rights and remedies provided by
41 law or contract.

42 **SECTION 3.** **The amendments to ORS 743.858 and 743.863 by sections 1 and 2 of this 2013**
43 **Act apply to contracts between independent review organizations and the Director of the**
44 **Department of Consumer and Business Services entered into on or after the effective date**
45 **of this 2013 Act.**

1 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
3 **on its passage.**

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