

HOUSE AMENDMENTS TO HOUSE BILL 2605

By COMMITTEE ON HEALTH CARE

April 9

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating new provisions; and”.

2 Delete lines 4 through 27 and delete page 2.

3 On page 3, delete lines 1 through 23 and insert:

4 **“SECTION 1. (1) The Department of Consumer and Business Services shall convene a**
5 **work group of stakeholders and department staff to consider modifying the standard for re-**
6 **viewing a rate filing under ORS 743.018 (4) to allow the Director of the Department of Con-**
7 **sumer and Business Services to disapprove a rate only if the rate falls outside of a range of**
8 **rates that are:**

9 **“(a) Actuarially sound;**

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

11 **“(c) Based upon reasonable administrative expenses.**

12 **“(2) The department shall report the findings of the work group to the appropriate in-**
13 **terim committees of the Legislative Assembly no later than September 15, 2016.**

14 **“SECTION 2.** ORS 743.018 is amended to read:

15 “743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015,
16 every insurer shall file with the Director of the Department of Consumer and Business Services all
17 schedules and tables of premium rates for life and health insurance to be used on risks in this state,
18 and shall file any amendments to or corrections of such schedules and tables. Premium rates are
19 subject to approval, disapproval or withdrawal of approval by the director as provided in ORS
20 742.003, 742.005, [and] 742.007 **and 743.019.**

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

24 **“(a) Health benefit plans for small employers.**

25 **“(b) Individual health benefit plans.**

26 **“(3) The director may by rule:**

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

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

30 **“(4) The director, after conducting an actuarial review of the rate filing, may approve a pro-**
31 **posed premium rate for a health benefit plan for small employers or for an individual health benefit**
32 **plan if, in the director’s discretion, the proposed rates are:**

33 **“(a) Actuarially sound;**

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

35 **“(c) Based upon reasonable administrative expenses.**

1 “(5) In order to determine whether the proposed premium rates for a health benefit plan for
2 small employers or for an individual health benefit plan are reasonable and not excessive, inade-
3 quate or unfairly discriminatory, the director may consider:

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

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

7 “(c) Historical and projected loss ratio between the amounts spent on medical services and
8 earned premiums.

9 “(d) Any anticipated change in the number of enrollees if the proposed premium rate is ap-
10 proved.

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

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

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

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

18 “[~~(6)~~ *With the written consent of the insurer, the director may modify a schedule or table of pre-*
19 *mium rates filed in accordance with subsection (1) of this section.*]

20 “[~~(7)~~ **(6)** The requirements of this section do not supersede other provisions of law that require
21 insurers, health care service contractors or multiple employer welfare arrangements providing
22 health insurance to file schedules or tables of premium rates or proposed premium rates with the
23 director or to seek the director’s approval of rates or changes to rates.

24 “**SECTION 3.** ORS 743.019 is amended to read:

25 “743.019. (1) When an insurer files a schedule or table of premium rates for individual or small
26 employer health insurance under ORS 743.018, the [*Director of the*] Department of Consumer and
27 Business Services shall open a 30-day public comment period on the rate filing that begins on the
28 date the insurer files the schedule or table of premium rates. The [*director*] **department** shall post
29 all **of the** comments **received** to the **department’s** website [*of the Department of Consumer and*
30 *Business Services*] without delay.

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

35 “**(2) The department shall make a preliminary decision to approve, disapprove or modify**
36 **a rate filing. The department shall notify the insurer of, and make available to the public,**
37 **the preliminary decision, including:**

38 “**(a) An explanation of the findings and rationale that are the basis for the decision; and**

39 “**(b) Any actuarial or other analyses, calculations or evaluations relied upon by the de-**
40 **partment in arriving at the decision.**

41 “**(3) The department shall provide the insurer or any person adversely affected or**
42 **aggrieved by the preliminary decision the opportunity to meet with the department to dis-**
43 **cuss and respond to the preliminary decision. However, an insurer or other person may not**
44 **substitute new facts or data for the facts or data submitted by the insurer in the filing. The**
45 **meeting shall:**

1 “(a) Include a department employee who reviewed the rate filing; and
2 “(b) Comply with the requirements of ORS 192.610 to 192.690.
3 “(4)(a) The department may approve a modified rate filing only with the written consent
4 of the insurer. An insurer’s consent to the modified rate filing does not preclude the insurer
5 from contesting the modified rate filing by requesting a reconsideration under subsection (6)
6 of this section or by requesting a contested case hearing.
7 “(b) If the modified rate filing is reversed as a result of a reconsideration or contested
8 case hearing, the rate filing, as approved in the reconsideration or final order in a contested
9 case, may take effect on or after the date of the reconsideration or final order, in accordance
10 with rules adopted by the department.
11 “(5)(a) The department shall issue an order, no later than 30 days after the close of the
12 public comment period described in subsection (1) of this section, approving, disapproving or
13 modifying the rate filing based on the information submitted during the public comment pe-
14 riod. However, the department may not consider new facts or data that are offered as a
15 substitute for the facts or data submitted by the insurer in the filing. The order shall be
16 mailed to the insurer and posted to the department’s website.
17 “(b) The order must include:
18 “(A) An explanation of the findings and rationale that are the basis for the order, in-
19 cluding any actuarial or other analyses, calculations or evaluations relied upon by the de-
20 partment in its findings or rationale; and
21 “(B) Notice of the right of the insurer or any person adversely affected or aggrieved by
22 the order to contest the order by requesting:
23 “(i) An expedited reconsideration in accordance with subsection (6) of this section; or
24 “(ii) A contested case hearing in accordance with ORS chapter 183.
25 “(6) If an insurer or a person adversely affected or aggrieved by an order approving,
26 disapproving or modifying a rate filing submits to the department a request for reconsider-
27 ation no later than 10 days after the date the order is issued under subsection (5) of this
28 section:
29 “(a) The requester may not substitute new facts or data for the facts and data that were
30 submitted by the insurer in the filing, but may provide a brief, memorandum or analysis
31 based on the evidence contained in the filing or received and considered by the department
32 during the public comment period;
33 “(b) The Director of the Department of Consumer and Business Services may not dele-
34 gate the decision-making authority for the reconsideration request to any other individual;
35 “(c) The director shall issue a decision on the request for reconsideration no later than
36 30 days after the request is received by the department; and
37 “(d) The decision shall include:
38 “(A) An explanation of the findings and rationale that are the basis for the decision; and
39 “(B) Notice of the right to a contested case hearing in accordance with ORS chapter 183.
40 “(7) Subsections (2) and (5) of this section do not require the department to perform any
41 actuarial or other analyses, calculations or evaluations.
42 “(8) The department may adopt rules modifying the procedures described in subsections
43 (2) to (6) of this section, but only to the extent necessary to comply with 42 U.S.C.
44 300gg-94.”
45 In line 24, delete “3” and insert “4”.

