

A-Engrossed
Senate Bill 1505

Ordered by the Senate February 11
Including Senate Amendments dated February 11

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Health Care)

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.

Authorizes Department of Consumer and Business Services to adopt by rule fees that are reasonably calculated to pay costs associated with administering laws regulating pharmacy benefit managers.

Provides department with power to civilly enforce laws regulating pharmacy benefit managers. [*Requires pharmacy benefit managers to reimburse network pharmacies for drugs at rate that is not less than price of drugs specified in most recently updated version of list establishing maximum allowable costs for drugs.*]

Provides department with power to examine and investigate pharmacy benefit managers.
Updates and clarifies laws regulating pharmacy benefit managers.

A BILL FOR AN ACT

1
2 Relating to pharmacy benefit managers; creating new provisions; and amending ORS 735.530,
3 735.532, 735.544 and 735.550.

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

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6 **FEES**

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8 **SECTION 1.** ORS 735.532 is amended to read:

9 735.532. (1) To conduct business in this state, a pharmacy benefit manager must register with
10 the Department of Consumer and Business Services and annually renew the registration.

11 (2) To register under this section, a pharmacy benefit manager must:

12 (a) Submit an application to the department on a form prescribed by the department by rule.

13 (b) Pay a registration fee[, *not to exceed \$50,*] adopted by the department by rule.

14 (3) To renew a registration under this section, a pharmacy benefit manager must pay a renewal
15 fee[, *not to exceed \$50,*] adopted by the department by rule.

16 **(4) Fees adopted under subsections (2)(b) and (3) of this section must be reasonably cal-**
17 **culated to pay the costs incurred by the department under ORS 735.530 to 735.552.**

18 [(4)] **(5) The department shall deposit all moneys collected under this section into the Consumer**
19 **and Business Services Fund created in ORS 705.145. Moneys deposited into the fund pursuant**
20 **to this section are continuously appropriated to the department for purposes of administer-**
21 **ing and enforcing ORS 735.530 to 735.552.**

22
23 **ENFORCEMENT**

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 filling or refilling a prescription for a drug or for providing a medical supply or service.

2 (2) "Insurer" has the meaning given that term in ORS 731.106.

3 (3) "Pharmacist" has the meaning given that term in ORS 689.005.

4 [(4)] (4)(a) "Pharmacy" has the meaning given that term in ORS 689.005.

5 **(b) "Pharmacy" includes an entity that provides or oversees administrative services for**
6 **two or more pharmacies.**

7 (5)(a) "Pharmacy benefit manager" means a person that contracts with pharmacies on behalf of
8 an insurer, a third party administrator or the Oregon Prescription Drug Program established in ORS
9 414.312 to:

10 (A) Process claims for prescription drugs or medical supplies or provide retail network man-
11 agement for pharmacies or pharmacists;

12 (B) Pay pharmacies or pharmacists for prescription drugs or medical supplies; or

13 (C) Negotiate rebates with manufacturers for drugs paid for or procured as described in this
14 paragraph.

15 (b) "Pharmacy benefit manager" does not include a health care service contractor as defined in
16 ORS 750.005.

17 (6) "Third party administrator" means a person licensed under ORS 744.702.

18 **SECTION 8.** ORS 735.544 is amended to read:

19 735.544. An [entity's] **entity or an independent third party that contracts with an entity**
20 **must base a** finding that a claim was incorrectly presented or paid [*must be based*] on identified
21 transactions and not [*based*] on probability sampling, extrapolation or other means that project an
22 error using the number of patients served who have a similar diagnosis or the number of similar
23 prescriptions or refills for similar drugs.

24 **SECTION 9.** ORS 735.550 is amended to read:

25 735.550. (1)(a) After conducting an audit **or having an audit conducted**, an entity must provide
26 the pharmacy that is the subject of the audit with a preliminary report of the audit. The preliminary
27 report must be received by the pharmacy no later than 45 days after the date on which the audit
28 was completed and must be sent:

29 (A) By mail or common carrier with a return receipt requested; or

30 (B) Electronically with electronic receipt confirmation.

31 (b) An entity shall provide a pharmacy receiving a preliminary report under this subsection no
32 fewer than 45 days after receiving the report to contest the report or any findings in the report in
33 accordance with the appeals procedure established under ORS 735.542 (1) and to provide additional
34 documentation in support of the claim. The entity shall consider a reasonable request for an exten-
35 sion of time to submit documentation to contest the report or any findings in the report.

36 (2) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall
37 allow the pharmacy to resubmit the claim using any commercially reasonable method, including
38 facsimile, mail or electronic mail.

39 (3) An entity must provide a pharmacy that is the subject of an audit with a final report of the
40 audit no later than 60 days after the later of the date the preliminary report was received or the
41 date the pharmacy contested the report using the appeals procedure established under ORS 735.542
42 (1). The final report must include a final accounting of all moneys to be recovered by the entity.

43 (4) Recoupment of disputed funds from a pharmacy by an entity or repayment of funds to an
44 entity by a pharmacy, unless otherwise agreed to by the entity and the pharmacy, shall occur after
45 the audit and the appeals procedure established under ORS 735.542 (1) are final. If the identified

1 discrepancy for an individual audit exceeds \$40,000, any future payments to the pharmacy may be
2 withheld by the entity until the audit and the appeals procedure established under ORS 735.542 (1)
3 are final.

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UNIT CAPTIONS

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7 **SECTION 10. The unit captions used in this 2016 Act are provided only for the conven-**
8 **ience of the reader and do not become part of the statutory law of this state or express any**
9 **legislative intent in the enactment of this 2016 Act.**

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