

B-Engrossed House Bill 2339

Ordered by the Senate June 6
Including House Amendments dated April 7 and Senate Amendments
dated June 6

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for
Department of Consumer and Business Services)

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.

Prohibits **out-of-network** health care provider [*or participating health care facility*] from balance billing patient covered by health benefit plan or health care service contract for services provided at [*participating*] **in-network** health care facility. [*Requires insurer and health care service contractor to reimburse nonparticipating provider at specified rates.*] **Requires Department of Consumer and Business Services to convene advisory group to make recommendations regarding balance billing. Requires Director of Department of Consumer and Business Services to report to Legislative Assembly legislative changes needed to implement advisory group's recommendations.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to claims for reimbursement of the cost of health care services; creating new provisions;
3 amending ORS 750.055; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of the Insurance Code.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "Emergency services" has the meaning given that term in ORS 743A.012.

8 (b) "Enrollee" means:

9 (A) An individual who is enrolled in a health benefit plan or a covered dependent or
10 beneficiary of the individual; or

11 (B) A subscriber to a health care service contract or a covered dependent or beneficiary
12 of the subscriber.

13 (c) "Health benefit plan" has the meaning given that term in ORS 743B.005.

14 (d) "Health care facility" has the meaning given that term in ORS 442.015, excluding long
15 term care facilities.

16 (e) "Health care service contractor" has the meaning given that term in ORS 750.005.

17 (f) "In-network" has the meaning given that term in ORS 743B.280.

18 (g) "Out-of-network" has the meaning given that term in ORS 743B.280.

19 (2) Except as provided in subsection (3) of this section, a provider who is an out-of-
20 network provider for a health benefit plan or health care service contract may not bill an
21 enrollee in the health benefit plan or health care service contract for emergency services or
22 other inpatient or outpatient services provided at an in-network health care facility.

23 (3) Subsection (2) of this section does not apply:

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 (a) To applicable coinsurance, copayments or deductible amounts that apply to services
2 provided by an in-network provider; or

3 (b) To services, other than emergency services, provided to enrollees who choose to re-
4 ceive services from an out-of-network provider.

5 (4) If an enrollee chooses to receive services from an out-of-network provider, the pro-
6 vider shall inform the enrollee that the enrollee will be financially responsible for
7 coinsurance, copayments or other out-of-pocket expenses attributable to choosing an out-
8 of-network provider.

9 **SECTION 3.** (1) The Department of Consumer and Business Services shall convene an
10 advisory group that includes health care providers, insurers and consumer advocates to de-
11 velop recommendations for the reimbursement of services provided to enrollees by out-of-
12 network providers at in-network health care facilities.

13 (2) The advisory group shall provide its recommendations to the Director of the Depart-
14 ment of Consumer and Business Services, and the director shall, no later than December 31,
15 2017, report to the Legislative Assembly in the manner provided in ORS 192.245 any legisla-
16 tive changes needed to implement the recommendations of the advisory group.

17 **SECTION 4.** ORS 750.055, as amended by section 7, chapter 59, Oregon Laws 2015, is amended
18 to read:

19 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
20 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

21 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
22 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
23 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
24 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

25 (b) ORS 731.485, except in the case of a group practice health maintenance organization that is
26 federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and
27 operates an in-house drug outlet.

28 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
29 including ORS 732.582.

30 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
31 to 733.780.

32 (e) ORS chapter 734.

33 (f) ORS 735.600 to 735.650.

34 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
35 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044,
36 743.050, 743.100 to 743.109, 743.402, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522,
37 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
38 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051, 743A.058, 743A.062, 743A.064,
39 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,
40 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,
41 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003
42 to 743B.127, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,
43 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320, 743B.323,
44 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,
45 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.540, 743B.550, 743B.555,

1 743B.601 and 743B.800 and section 2, chapter 771, Oregon Laws 2013, **and section 2 of this 2017**
2 **Act.**

3 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and
4 third party administrators.

5 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
6 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

7 (j) ORS 743A.024, except in the case of group practice health maintenance organizations that
8 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is
9 referred by a physician, physician assistant or nurse practitioner associated with a group practice
10 health maintenance organization.

11 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

12 (3) Any for-profit health care service contractor organized under the laws of any other state that
13 is not governed by the insurance laws of the other state is subject to all requirements of ORS
14 chapter 732.

15 (4) The Director of the Department of Consumer and Business Services may, after notice and
16 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
17 and 750.045 that are deemed necessary for the proper administration of these provisions.

18 **SECTION 5.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, section
19 6, chapter 25, Oregon Laws 2014, section 81, chapter 45, Oregon Laws 2014, section 8, chapter 59,
20 Oregon Laws 2015, section 6, chapter 100, Oregon Laws 2015, section 6, chapter 224, Oregon Laws
21 2015, section 10, chapter 362, Oregon Laws 2015, section 9, chapter 470, Oregon Laws 2015, and
22 section 29, chapter 515, Oregon Laws 2015, is amended to read:

23 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
24 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

25 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
26 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
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28 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

29 (b) ORS 731.485, except in the case of a group practice health maintenance organization that is
30 federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and
31 operates an in-house drug outlet.

32 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
33 including ORS 732.582.

34 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
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8 third party administrators.

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22 **SECTION 6.** ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section
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19 (3) Any for-profit health care service contractor organized under the laws of any other state that
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21 chapter 732.

22 (4) The Director of the Department of Consumer and Business Services may, after notice and
23 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
24 and 750.045 that are deemed necessary for the proper administration of these provisions.

25 **SECTION 7. Section 2 of this 2017 Act and the amendments to ORS 750.055 by sections**
26 **4 to 6 of this 2017 Act become operative on March 1, 2018.**

27 **SECTION 8. The Department of Consumer and Business Services shall, before the oper-**
28 **ative date specified in section 7 of this 2017 Act, take any actions necessary to implement**
29 **section 2 of this 2017 Act and the amendments to ORS 750.055 by sections 4 to 6 of this 2017**
30 **Act on the operative date specified in section 7 of this 2017 Act.**

31 **SECTION 9. This 2017 Act being necessary for the immediate preservation of the public**
32 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
33 **on its passage.**

34