

# House Bill 4103

Sponsored by Representative ALONSO LEON, Senator HANSELL; Representatives DOHERTY, GREENLICK, HAYDEN, KENNEMER, KENY-GUYER, MALSTROM, MCLAIN, NOBLE, NOSSE, VIAL, Senators BEYER, MONNES ANDERSON, RILEY, ROBLAN (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 **as introduced**.

Limits pharmacy benefit managers' ability to require or encourage enrollees to fill or refill prescription drugs at mail order pharmacy. Prohibits pharmacy benefit managers from requiring special credentialing or similar requirements for pharmacists licensed by State Board of Pharmacy.

## A BILL FOR AN ACT

1  
2 Relating to pharmacy benefit managers; creating new provisions; and amending ORS 735.530.

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

4 **SECTION 1. Section 2 of this 2018 Act is added to and made a part of ORS 735.530 to**  
5 **735.552.**

6 **SECTION 2. A pharmacy benefit manager registered in this state:**

7 (1) **May not require an enrollee to fill or refill prescriptions at a mail order pharmacy;**

8 (2) **May not impose additional copayments, deductibles, fees or utilization controls or use**  
9 **other means to provide incentives for an enrollee to fill or refill a prescription at a mail or-**  
10 **der pharmacy instead of a retail pharmacy;**

11 (3) **May not impose additional administrative requirements for an enrollee to fill or refill**  
12 **a prescription at a retail pharmacy instead of through a mail order pharmacy;**

13 (4) **May not require a licensed pharmacist, as a condition of payment, reimbursement or**  
14 **contracting with the pharmacy benefit manager, to meet accreditation, certification or cre-**  
15 **credentialing standards in addition to those required by the State Board of Pharmacy or other**  
16 **state or federal laws. This subsection does not prevent a pharmacy benefit manager from**  
17 **denying reimbursement of a claim for a prescription drug that has specialized storage or**  
18 **consultation requirements if the pharmacist does not have proper storage for or is not**  
19 **properly trained to counsel patients about the drug;**

20 (5) **Shall reimburse a retail pharmacy for the cost of a prescription drug in the same**  
21 **amount that the pharmacy benefit manager reimburses the cost of the prescription drug**  
22 **ordered from a mail order pharmacy owned or controlled by the pharmacy benefit manager;**  
23 **and**

24 (6) **Shall notify a policyholder or certificate holder whose pharmacy benefits are admin-**  
25 **istered by the pharmacy benefit manager of any conflicts of interest arising between the**  
26 **pharmacy benefit manager and a mail order pharmacy, any financial incentives offered by a**  
27 **mail order pharmacy to the pharmacy benefit manager that will be provided for using the**  
28 **mail order pharmacy instead of a retail pharmacy and any manufacturer's rebates retained**  
29 **by the pharmacy benefit manager for drugs dispensed by a mail order pharmacy.**

30 **SECTION 3. ORS 735.530 is amended to read:**

**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.

1 735.530. As used in ORS 735.530 to 735.552:

2 (1) "Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of  
3 filling or refilling a prescription for a drug or for providing a medical supply or service.

4 (2) "Enrollee" means an individual whose prescription drug costs are paid by a pharmacy  
5 benefit manager.

6 [(2)] (3) "Insurer" has the meaning given that term in ORS 731.106.

7 (4) "Mail order pharmacy" means a pharmacy of which the primary business is to receive  
8 prescriptions by mail, telephone or electronic transmission and that dispenses drugs to pa-  
9 tients through the use of the United States Postal Service or a commercial delivery service.

10 [(3)] (5) "Pharmacist" has the meaning given that term in ORS 689.005.

11 [(4)] (6) "Pharmacy" includes:

12 (a) A pharmacy as defined in ORS 689.005; and

13 (b) An entity that provides or oversees administrative services for two or more pharmacies.

14 [(5)(a)] (7)(a) "Pharmacy benefit manager" means a person that contracts with pharmacies on  
15 behalf of an insurer, a third party administrator or the Oregon Prescription Drug Program estab-  
16 lished in ORS 414.312 to:

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

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

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

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

24 (8) "Retail pharmacy" means a pharmacy that is open to the public, serves walk-in cus-  
25 tomers and makes available an in-person consultation with a licensed pharmacist.

26 [(6)] (9) "Third party administrator" means a person licensed under ORS 744.702.

27