

SENATE AMENDMENTS TO SENATE BILL 1549

By COMMITTEE ON HEALTH CARE

February 16

1 On page 1 of the printed bill, line 2, after the first semicolon insert “creating new provisions;”
2 and after “411.439” insert “and 743B.287”.

3 In line 24, delete “not ter-”.

4 In line 25, delete “minate” and insert “continue”.

5 On page 2, line 5, delete “between 90 and” and insert “up to”.

6 After line 8, insert:

7 **“SECTION 2. Section 3 of this 2018 Act is added to and made a part of the Insurance**
8 **Code.**

9 **“SECTION 3. (1) As used in this section:**

10 **“(a) ‘Health benefit plan’ has the meaning given that term in ORS 743B.005.**

11 **“(b) ‘Health savings account’ means an account established under section 223 of the**
12 **Internal Revenue Code.**

13 **“(2) This section applies to a health benefit plan that is:**

14 **“(a) Offered by a carrier as a plan that qualifies for a health savings account distribution;**
15 **and**

16 **“(b) Subject to a provision of the Insurance Code that prohibits a health benefit plan**
17 **from applying a deductible to a specified health care service that is reimbursed by the health**
18 **benefit plan.**

19 **“(3) The Department of Consumer and Business Services may approve a filing under ORS**
20 **742.003 for a health benefit plan described in subsection (2) of this section if:**

21 **“(a) The health benefit plan would be approved but for the failure of the plan to comply**
22 **with the provision described in subsection (2)(b) of this section;**

23 **“(b) A deductible must be applied to the specified health care service for the plan to**
24 **qualify for a distribution from a health savings account; and**

25 **“(c) The health benefit plan complies with all other applicable provisions of the Insurance**
26 **Code.**

27 **“SECTION 4. ORS 743B.287 is amended to read:**

28 **“743B.287. (1) As used in this section:**

29 **“(a) ‘Allowed amount’ means the reimbursement paid by an insurer or health care ser-**
30 **vice contractor to a health care provider for a specified service or group of services covered**
31 **by a health benefit plan or a health care service contract.**

32 **“[(a)] (b) ‘Emergency services’ has the meaning given that term in ORS 743A.012.**

33 **“[(b)] (c) ‘Enrollee’ means:**

34 **“(A) An individual who is enrolled in a health benefit plan or a covered dependent or beneficiary**
35 **of the individual; or**

1 “(B) A subscriber to a health care service contract or a covered dependent or beneficiary of the
2 subscriber.

3 “[*(c)*] (d) ‘Health benefit plan’ has the meaning given that term in ORS 743B.005.

4 “[*(d)*] (e) ‘Health care facility’ has the meaning given that term in ORS 442.015, excluding long
5 term care facilities.

6 “[*(e)*] (f) ‘Health care service contractor’ has the meaning given that term in ORS 750.005.

7 “[*(f)*] (g) ‘In-network’ has the meaning given that term in ORS 743B.280.

8 “[*(g)*] (h) ‘Out-of-network’ has the meaning given that term in ORS 743B.280.

9 “(2) [*Except as provided in subsection (3) of this section,*] A provider who is an out-of-network
10 provider for a health benefit plan or health care service contract may not bill an enrollee in the
11 health benefit plan or health care service contract for emergency services or other inpatient or
12 outpatient services provided at an in-network health care facility.

13 “(3) **An insurer offering a health benefit plan and a health care service contractor shall**
14 **reimburse an out-of-network provider for emergency services or other covered inpatient or**
15 **outpatient services provided at an in-network health care facility in an amount established**
16 **in accordance with rules adopted by the Department of Consumer and Business Services**
17 **under subsection (6) of this section.**

18 “[*(3)*] (4) [*Subsection (2)*] **Subsections (2) and (3)** of this section [*does*] **do** not apply:

19 “(a) To applicable coinsurance, copayments or deductible amounts that apply to services pro-
20 vided by an in-network provider; or

21 “(b) To services, other than emergency services, provided to enrollees who choose to receive
22 services from an out-of-network provider.

23 “[*(4)*] (5) If an enrollee chooses to receive services from an out-of-network provider, the provider
24 shall inform the enrollee that the enrollee will be financially responsible for coinsurance,
25 copayments or other out-of-pocket expenses attributable to choosing an out-of-network provider.

26 “(6) **The department shall adopt rules for calculating the reimbursement that must be**
27 **paid to providers under subsection (3) of this section. The reimbursement must be equal to**
28 **the median allowed amount paid to in-network health care providers by commercial insurers**
29 **in this state, based on data collected under ORS 442.466 for the 2015 calendar year, adjusted**
30 **annually using the U.S. City Average Consumer Price Index for All Urban Consumers (All**
31 **Items) as published by the Bureau of Labor Statistics of the United States Department of**
32 **Labor. The Department of Consumer and Business Services may adjust the amount of re-**
33 **imbursement based on the differences in allowed amounts paid to health care providers in**
34 **certain geographic areas of this state.**

35 “**SECTION 5. (1) No later than July 1, 2020, the Department of Consumer and Business**
36 **Services shall report to the interim committees of the Legislative Assembly related to**
37 **health, in the manner provided in ORS 192.245, all of the following:**

38 “(a) **All consumer complaints presented to the department concerning billing for services**
39 **provided in in-network facilities by out-of-network providers, as defined in ORS 743B.287,**
40 **before and after March 1, 2018;**

41 “(b) **Any effects on the adequacy of provider networks after January 1, 2019, due to the**
42 **implementation of the amendments to ORS 743B.287 by section 4 of this 2018 Act, measured**
43 **by the standards prescribed under ORS 743B.505;**

44 “(c) **Any effects on premium rates after March 1, 2018, due to the implementation of ORS**
45 **743B.287; and**

1 “(d) Recommendations for methods to ensure compliance with the provisions of ORS
2 743B.287.

3 “(2) The department shall consult with health professional licensing boards in preparing
4 the information described in subsection (1)(a) of this section.

5 “**SECTION 6.** ORS 743B.287, as amended by section 4 of this 2018 Act, is amended to read:

6 “743B.287. (1) As used in this section:

7 “[(a) ‘Allowed amount’ means the reimbursement paid by an insurer or health care service con-
8 tractor to a health care provider for a specified service or group of services covered by a health benefit
9 plan or a health care service contract.]

10 “[(b)] (a) ‘Emergency services’ has the meaning given that term in ORS 743A.012.

11 “[(c)] (b) ‘Enrollee’ means:

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

14 “(B) A subscriber to a health care service contract or a covered dependent or beneficiary of the
15 subscriber.

16 “[(d)] (c) ‘Health benefit plan’ has the meaning given that term in ORS 743B.005.

17 “[(e)] (d) ‘Health care facility’ has the meaning given that term in ORS 442.015, excluding long
18 term care facilities.

19 “[(f)] (e) ‘Health care service contractor’ has the meaning given that term in ORS 750.005.

20 “[(g)] (f) ‘In-network’ has the meaning given that term in ORS 743B.280.

21 “[(h)] (g) ‘Out-of-network’ [*has the meaning given that term in ORS 743B.280*] **means a provider**
22 **or provider group that has not contracted or has indirectly contracted with the insurer or**
23 **health care service contractor.**

24 “(2) A provider who is an out-of-network provider [*for a health benefit plan or health care service*
25 *contract*] may not bill an enrollee in the health benefit plan or health care service contract for
26 emergency services or other inpatient or outpatient services provided at an in-network health care
27 facility.

28 “[(3) *An insurer offering a health benefit plan and a health care service contractor shall reimburse*
29 *an out-of-network provider for emergency services or other covered inpatient or outpatient services*
30 *provided at an in-network health care facility in an amount established in accordance with rules*
31 *adopted by the Department of Consumer and Business Services under subsection (6) of this section.*]

32 “[(4)] (3) [*Subsections (2) and (3)*] **Subsection (2)** of this section [*do*] **does** not apply:

33 “(a) To applicable coinsurance, copayments or deductible amounts that apply to services pro-
34 vided by an in-network provider; or

35 “(b) To services, other than emergency services, provided to enrollees who choose to receive
36 services from an out-of-network provider.

37 “[(5)] (4) If an enrollee chooses to receive services from an out-of-network provider, the provider
38 shall inform the enrollee that the enrollee will be financially responsible for coinsurance,
39 copayments or other out-of-pocket expenses attributable to choosing an out-of-network provider.

40 “[(6) *The department shall adopt rules for calculating the reimbursement that must be paid to*
41 *providers under subsection (3) of this section. The reimbursement must be equal to the median allowed*
42 *amount paid to in-network health care providers by commercial insurers in this state, based on data*
43 *collected under ORS 442.466 for the 2015 calendar year, adjusted annually using the U.S. City Average*
44 *Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor*
45 *Statistics of the United States Department of Labor. The Department of Consumer and Business Ser-*

1 *vices may adjust the amount of reimbursement based on the differences in allowed amounts paid to*
2 *health care providers in certain geographic areas of this state.]*

3 **“SECTION 7. (1) The amendments to ORS 743B.287 by section 4 of this 2018 Act become**
4 **operative on January 1, 2019.**

5 **“(2) The amendments to ORS 743B.287 by section 6 of this 2018 Act become operative on**
6 **January 2, 2022.**

7 **“SECTION 8. Section 5 of this 2018 Act is repealed on January 2, 2021.**

8 **“SECTION 9. Section 3 of this 2018 Act applies to health benefit plans issued or renewed**
9 **on or after January 1, 2019.”**

10 In line 9, delete “2” and insert “10”.

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