

House Bill 2462

Sponsored by Representative NATHANSON (at the request of Oregon State Pharmacy Association, Gil Achertof, Randy Klemm, Brian Crook, Steve Hirons) (Pre-session 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**.

Requires pharmacy benefit manager to amend contract with pharmacy or pharmacy services administrative organization or take other steps to adjust reimbursement paid to pharmacy or pharmacy services administrative organization to take into account costs incurred from new taxes or fees. Prohibits pharmacy benefit manager from taking retaliatory action against pharmacy or pharmacy services administrative organization.

Requires insurers to submit for review by Department of Consumer and Business Services contracts with pharmacy benefits managers and reimbursement paid by pharmacy benefit manager to ensure reimbursement is sufficient to enlist enough pharmacies for insurer to meet network adequacy standards.

A BILL FOR AN ACT

1 Relating to pharmacy benefit managers.

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

3 **SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS 735.530**
4 **to 735.552.**

5 **SECTION 2. (1) As used in this section and section 3 of this 2021 Act, “pharmacy services**
6 **administrative organization” means an organization that represents a network of independ-**
7 **ent pharmacies or small chain pharmacies in negotiating agreements with managed care**
8 **organizations, pharmacy benefit managers, medical assistance programs or insurers.**

9 **(2) If a pharmacy, including a pharmacy that contracts with a pharmacy services ad-**
10 **ministrative organization, after entering into or renewing a contract with a pharmacy ben-**
11 **efit manager registered under ORS 735.532, becomes subject to a new tax or fee that is**
12 **projected to increase the pharmacy’s costs in an amount that equals or exceeds 0.3 percent**
13 **of the pharmacy’s sales of pharmaceuticals in this state over the term of the contract, upon**
14 **the request of the pharmacy or a pharmacy services administrative organization, the phar-**
15 **macy benefit manager shall:**

16 **(a) Amend the contract or otherwise adjust the reimbursement and fees paid to the**
17 **pharmacy or pharmacy services administrative organization to take into account the new**
18 **costs; or**

19 **(b) Refund the additional cost to the pharmacy or pharmacy services administrative or-**
20 **ganization or enter into a supplemental agreement to compensate the pharmacy or pharmacy**
21 **services administrative organization for the additional cost.**

22 **SECTION 3. (1) As used in this section, retaliatory actions include any of the following**
23 **initiated by a pharmacy benefit manager:**

24 **(a) Imposing new charges or fees;**

25 **(b) Requiring a contract amendment;**

26 **(c) Unless requested by a pharmacy or pharmacy services administrative organization,**
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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 **cancelling a contract after fewer than five years or without at least 10 months advance no-**
2 **tice;**

3 **(d) Demanding recoupment; or**

4 **(e) Other retaliatory or punitive actions prescribed by the Department of Consumer and**
5 **Business Services by rule.**

6 **(2) A pharmacy benefit manager registered under ORS 735.532 may not take any retali-**
7 **atory action against a pharmacy or a pharmacy services administrative organization for:**

8 **(a) Filing an appeal;**

9 **(b) Filing a complaint against the pharmacy benefit manager with the Department of**
10 **Consumer and Business Services;**

11 **(c) Engaging in the legislative process; or**

12 **(d) Challenging the pharmacy benefit manager's practices or agreements.**

13 **SECTION 4. Section 5 of this 2021 Act is added to and made a part of the Insurance Code.**

14 **SECTION 5. (1) As used in this section:**

15 **(a) "Health benefit plan" has the meaning given that term in ORS 743B.005.**

16 **(b) "Pharmacy benefit manager" has the meaning given that term in ORS 735.530.**

17 **(2) An insurer offering an individual or group health benefit plan in this state that con-**
18 **tracts with a pharmacy benefit manager shall submit to the Department of Consumer and**
19 **Business Services for review the contract with the pharmacy benefit manager and informa-**
20 **tion prescribed by the department concerning the reimbursement paid to network pharma-**
21 **cies under the contract.**

22 **(3) The department shall review the reimbursement paid to network pharmacies to de-**
23 **termine whether the reimbursement is fair, reasonable and appropriate and sufficient to**
24 **enlist an adequate network of pharmacies to serve insureds under the health benefit plan in**
25 **accordance with ORS 743B.505.**

26 **SECTION 6. Sections 2, 3 and 5 of this 2021 Act apply to contracts entered into, renewed**
27 **or extended on or after the effective date of this 2021 Act.**

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