

# House Bill 4132

Sponsored by Representatives NOBLE, NOSSE; Representatives MOORE-GREEN, SCHOUTEN (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 Department of Consumer and Business Services to meet monthly with specified health care providers to discuss providers' concerns regarding insurer practices.

Requires department to study trends in reimbursement paid to specified health care providers and report findings to interim committees of Legislative Assembly related to health no later than November 30, 2022.

Requires Division of Audits of Secretary of State to conduct audit of practices and drug pricing mechanics of pharmacy benefit managers that contract with state agencies and report findings to interim committees of Legislative Assembly related to health no later than September 15, 2023.

Requires department to adopt rules to implement statutory requirements related to pharmacy benefit managers and apply requirements to contracts that automatically renew on or after effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to health care providers; creating new provisions; amending ORS 735.536 and section 5,  
3 chapter 526, Oregon Laws 2019; and declaring an emergency.

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

5 **SECTION 1.** (1) **As used in this section, "health care provider" means a representative**  
6 **of an entity that is primarily engaged in the provision of acupuncture, chiropractic, massage**  
7 **therapy, naturopathic medicine or physical therapy.**

8 (2) **The Department of Consumer and Business Services shall schedule a monthly meeting**  
9 **with health care providers in this state to discuss the providers' concerns regarding prac-**  
10 **tices of insurers and to answer other insurance-related questions. The meeting may be con-**  
11 **ducted in person, by telephone or by other electronic means. If the meeting is conducted in**  
12 **person, the department shall allow health care providers to participate by telephone or other**  
13 **electronic means.**

14 **SECTION 2.** (1) **As used in this section, "health care provider" means an entity that is**  
15 **primarily engaged in the provision of acupuncture, chiropractic, massage therapy,**  
16 **naturopathic medicine or physical therapy.**

17 (2) **The Department of Consumer and Business Services shall study trends in the re-**  
18 **imbursement paid to health care providers by insurers.**

19 (3) **No later than November 30, 2022, the department shall report, in the manner provided**  
20 **in ORS 192.245, the department's findings from the study conducted under subsection (2) of**  
21 **this section to the interim committees of the Legislative Assembly related to health.**

22 **SECTION 3.** (1) **The Division of Audits of the Secretary of State shall conduct an audit**  
23 **of contracts between pharmacy benefit managers and the Public Employees' Benefit Board,**  
24 **the Oregon Health Authority, the Department of Human Services and any other state agency**  
25 **that contracts with a pharmacy benefit manager for processing claims for reimbursement**

**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 of prescription drugs.

2 (2) The audit shall include but is not limited to:

3 (a) An investigation into the mechanics of drug pricing; and

4 (b) Analyses of the cost of prescription drugs to pharmacy benefit managers in relation  
5 to the prices charged to the state and to pharmacies and other providers participating in  
6 state programs.

7 (3) No later than September 15, 2023, the Secretary of State shall report, in the manner  
8 provided in ORS 192.245, to the interim committees of the Legislative Assembly related to  
9 health on the findings and conclusions of the audit conducted under this section.

10 **SECTION 4.** ORS 735.536 is amended to read:

11 735.536. (1) As used in this section, “out-of-pocket cost” means the amount paid by an enrollee  
12 under the enrollee’s coverage, including deductibles, copayments, coinsurance or other expenses as  
13 prescribed by the Department of Consumer and Business Services by rule.

14 (2) A pharmacy benefit manager registered under ORS 735.532:

15 (a) May not require a prescription to be filled or refilled by a mail order pharmacy as a condi-  
16 tion for reimbursing the cost of the drug.

17 (b) Except as provided in paragraph (c) of this subsection, may require a prescription for a  
18 specialty drug to be filled or refilled at a specialty pharmacy as a condition for the reimbursement  
19 of the cost of a drug.

20 (c) Shall reimburse the cost of a specialty drug that is filled or refilled at a network pharmacy  
21 that is a long term care pharmacy.

22 (d)(A) Shall allow a network pharmacy to mail, ship or deliver prescription drugs to its patients  
23 as an ancillary service.

24 (B) Is not required to reimburse a delivery fee charged by a pharmacy for a delivery described  
25 in subparagraph (A) of this paragraph unless the fee is specified in the contract between the phar-  
26 macy benefit manager and the pharmacy.

27 (e) May not require a patient signature as proof of delivery of a mailed or shipped prescription  
28 drug if the network pharmacy:

29 (A)(i) Maintains a mailing or shipping log signed by a representative of the pharmacy; or

30 (ii) Maintains each notification of delivery provided by the United States Postal Service or a  
31 package delivery service; and

32 (B) Is responsible for the cost of mailing, shipping or delivering a replacement for a drug that  
33 was mailed or shipped but not received by the enrollee.

34 (f) May not penalize a network pharmacy for or otherwise directly or indirectly prevent a net-  
35 work pharmacy from informing an enrollee of the difference between the out-of-pocket cost to the  
36 enrollee to purchase a prescription drug using the enrollee’s pharmacy benefit and the pharmacy’s  
37 usual and customary charge for the prescription drug.

38 (3) The Department of Consumer and Business Services *[may]* **shall** adopt rules to *[carry out]*  
39 **enforce** the provisions of this section.

40 **SECTION 5.** Section 5, chapter 526, Oregon Laws 2019, is amended to read:

41 **Sec. 5.** *[Section 2 of this 2019 Act]* **ORS 735.536** and the amendments to ORS 735.530 and 735.534  
42 by sections 3 and 4, *[of this 2019 Act]* **chapter 526, Oregon Laws 2019**, apply to pharmacy benefits  
43 and to contracts between pharmacies or pharmacists and pharmacy benefit managers:

44 (1) Entered into, renewed or extended on or after January 1, 2021; and

45 (2) **Automatically renewed on or after the effective date of this 2022 Act.**

1        **SECTION 6.** (1) Section 2 of this 2022 Act is repealed on January 2, 2023.

2        (2) Section 3 of this 2022 Act is repealed on January 2, 2024.

3        **SECTION 7.** This 2022 Act being necessary for the immediate preservation of the public  
4 peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect  
5 on its passage.

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