

**A-Engrossed**  
**House Bill 4134**

Ordered by the House February 16  
Including House Amendments dated February 16

Sponsored by Representative STARK, Senator STEINER HAYWARD, Representatives NOSSE, GRAYBER, MORGAN, NOBLE, POWER, REYNOLDS, SALINAS, Senators GELSER BLOUIN, KNOPP, MANNING JR; Representatives ALONSO LEON, BONHAM, BOSHART DAVIS, BYNUM, DEXTER, GEORGE, GOMBERG, GOODWIN, HELM, HUDSON, LEVY, LIVELY, MARSH, MEEK, MOORE-GREEN, OWENS, PHAM, PRUSAK, REARDON, RESCHKE, SCHARF, SCHOUTEN, SMITH DB, SMITH G, WALLAN, WEBER, WILDE, WILLIAMS, Senators BEYER, FINDLEY, FREDERICK, GOLDEN, HANSELL, KENNEMER, LAWRENCE SPENCE, LINTHICUM, PATTERSON, PROZANSKI, THOMSEN (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.

Requires insurer and health care service contractor to cover labor and delivery services provided at out-of-network health care facility if services provided at out-of-network facility due solely to diversion of patient from in-network health care facility for reasons related to state or federal declaration of public health emergency. **Prescribes rate of reimbursement and prohibits deductible, out-of-pocket maximum, copayment or coinsurance requirement in excess of such requirements applicable to in-network providers. Exempts Public Employees' Benefit Board and Oregon Educators Benefit Board.**

**Requires health benefit plan coverage of emergency medical services transport of pregnant woman presenting with signs of labor between medical facilities.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to insurance; creating new provisions; amending ORS 243.144, 243.877, 743A.012 and  
3 743B.287; and declaring an emergency.

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

5 **SECTION 1.** ORS 743B.287 is amended to read:

6 743B.287. (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 beneficiary  
10 of the individual; or

11 (B) A subscriber to a health care service contract or a covered dependent or beneficiary of the  
12 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 term  
15 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" means a provider or provider group that has not contracted or has indi-  
19 rectly contracted with the insurer or health care service contractor.

20 (2) A provider who is an out-of-network provider may not bill an enrollee in the health benefit

**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 plan or health care service contract for emergency services or other inpatient or outpatient services  
2 provided at an in-network health care facility.

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

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

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

8 **(4)(a) If labor and delivery services are provided to an individual insured under a health  
9 benefit plan or a health care service contract at an out-of-network health care facility due  
10 solely to the diversion of the individual from an in-network health care facility during a state  
11 or federally declared public health emergency, the health benefit plan or health care service  
12 contract:**

13 **(A) Shall reimburse the out-of-network provider in accordance with 42 U.S.C. 300gg-111(c)  
14 or in accordance with a method adopted by the Department of Consumer and Business Ser-  
15 vices by rule; and**

16 **(B) May not impose a deductible, out-of-pocket maximum, copayment or coinsurance re-  
17 quirement that exceeds the deductible, out-of-pocket maximum, copayment or coinsurance  
18 applicable to in-network providers of labor and delivery services.**

19 **(b) This subsection does not apply to services provided by an in-network provider at an  
20 out-of-network health care facility.**

21 [(4)] (5) If an enrollee chooses to receive services from an out-of-network provider, the provider  
22 shall inform the enrollee that the enrollee will be financially responsible for coinsurance,  
23 copayments or other out-of-pocket expenses attributable to choosing an out-of-network provider.

24 **SECTION 2.** ORS 243.144 is amended to read:

25 243.144. Benefit plans offered by the Public Employees' Benefit Board that reimburse the cost  
26 of medical and other health services and supplies must comply with the requirements for health  
27 benefit plan coverage described in:

28 (1) ORS 743A.058;

29 (2) ORS 743B.256;

30 (3) ORS 743B.420;

31 (4) ORS 743B.423;

32 (5) ORS 743B.601; [and]

33 (6) ORS 743B.810; and

34 (7) **ORS 743B.287 (4).**

35 **SECTION 3.** ORS 243.877 is amended to read:

36 243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost  
37 of medical and other health services and supplies must comply with the requirements for health  
38 benefit plan coverage described in:

39 (1) ORS 743A.058;

40 (2) ORS 743B.256;

41 (3) ORS 743B.420;

42 (4) ORS 743B.423;

43 (5) ORS 743B.601; [and]

44 (6) ORS 743B.810; and

45 (7) **ORS 743B.287 (4).**

1       **SECTION 4.** ORS 743A.012 is amended to read:

2       743A.012. (1) As used in this section:

3       (a) “Behavioral health assessment” means an evaluation by a behavioral health clinician, in  
4 person or using telemedicine, to determine a patient’s need for immediate crisis stabilization.

5       (b) “Behavioral health clinician” means:

6       (A) A licensed psychiatrist;

7       (B) A licensed psychologist;

8       (C) A licensed nurse practitioner with a specialty in psychiatric mental health;

9       (D) A licensed clinical social worker;

10       (E) A licensed professional counselor or licensed marriage and family therapist;

11       (F) A certified clinical social work associate;

12       (G) An intern or resident who is working under a board-approved supervisory contract in a  
13 clinical mental health field; or

14       (H) Any other clinician whose authorized scope of practice includes mental health diagnosis and  
15 treatment.

16       (c) “Behavioral health crisis” means a disruption in an individual’s mental or emotional stability  
17 or functioning resulting in an urgent need for immediate outpatient treatment in an emergency de-  
18 partment or admission to a hospital to prevent a serious deterioration in the individual’s mental or  
19 physical health.

20       (d) “Emergency medical condition” means a medical condition:

21       (A) That manifests itself by acute symptoms of sufficient severity, including severe pain, that a  
22 prudent layperson possessing an average knowledge of health and medicine would reasonably expect  
23 that failure to receive immediate medical attention would:

24       (i) Place the health of a person, or an unborn child in the case of a pregnant woman, in serious  
25 jeopardy;

26       (ii) Result in serious impairment to bodily functions; or

27       (iii) Result in serious dysfunction of any bodily organ or part;

28       (B) With respect to a pregnant woman who is having contractions, for which there is inadequate  
29 time to effect a safe transfer to another hospital before delivery or for which a transfer may pose  
30 a threat to the health or safety of the woman or the unborn child; or

31       (C) That is a behavioral health crisis.

32       (e) “Emergency medical screening exam” means the medical history, examination, ancillary tests  
33 and medical determinations required to ascertain the nature and extent of an emergency medical  
34 condition.

35       (f) “Emergency medical service provider” has the meaning given that term in ORS 682.025.

36       (g) “Emergency medical services transport” means an emergency medical services provider’s  
37 evaluation and stabilization of an individual experiencing a medical emergency and the transporta-  
38 tion of the individual to the nearest medical facility capable of meeting the needs of the individual.

39       (h) “Emergency services” means, with respect to an emergency medical condition:

40       (A) An emergency medical services transport;

41       (B) An emergency medical screening exam or behavioral health assessment that is within the  
42 capability of the emergency department of a hospital, including ancillary services routinely available  
43 to the emergency department to evaluate such emergency medical condition; and

44       (C) Such further medical examination and treatment as are required under 42 U.S.C. 1395dd to  
45 stabilize a patient, to the extent the examination and treatment are within the capability of the staff

1 and facilities available at a hospital.

2 (i) "Grandfathered health plan" has the meaning given that term in ORS 743B.005.

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

4 (k) "Prior authorization" has the meaning given that term in ORS 743B.001.

5 (L) "Stabilize" means to provide medical treatment as necessary to:

6 (A) Ensure that, within reasonable medical probability, no material deterioration of an emer-  
7 gency medical condition is likely to occur during or to result from the transfer of the patient to or  
8 from a facility; and

9 (B) With respect to a pregnant woman who is in active labor, to perform the delivery, including  
10 the delivery of the placenta.

11 (2) All insurers offering a health benefit plan shall provide coverage without prior authorization  
12 for:

13 (a) Emergency services **for all emergency medical conditions; and**

14 (b) **Emergency medical services transport between medical facilities for a pregnant**  
15 **woman presenting with signs of labor.**

16 (3) A health benefit plan, other than a grandfathered health plan, must provide coverage re-  
17 quired by subsection (2) of this section:

18 (a) For the services of participating providers, without regard to any term or condition of cov-  
19 erage other than:

20 (A) The coordination of benefits;

21 (B) An affiliation period or waiting period permitted under part 7 of the Employee Retirement  
22 Income Security Act, part A of Title XXVII of the Public Health Service Act or chapter 100 of the  
23 Internal Revenue Code;

24 (C) An exclusion other than an exclusion of emergency services; or

25 (D) Applicable cost-sharing; and

26 (b) For the services of a nonparticipating provider:

27 (A) Without imposing any administrative requirement or limitation on coverage that is more  
28 restrictive than requirements or limitations that apply to participating providers;

29 (B) Without imposing a copayment amount or coinsurance rate that exceeds the amount or rate  
30 for participating providers;

31 (C) Without imposing a deductible, unless the deductible applies generally to nonparticipating  
32 providers; and

33 (D) Subject only to an out-of-pocket maximum that applies to all services from nonparticipating  
34 providers.

35 (4) All insurers offering a health benefit plan shall provide information to enrollees in plain  
36 language regarding:

37 (a) What constitutes an emergency medical condition;

38 (b) The coverage provided for emergency services **and labor**;

39 (c) How and where to obtain emergency services; and

40 (d) The appropriate use of 9-1-1.

41 (5) An insurer offering a health benefit plan may not discourage appropriate use of 9-1-1 and  
42 may not deny coverage for emergency services when 9-1-1 is used.

43 (6) This section is exempt from ORS 743A.001.

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

45 (a) **"In-network provider" means an individual or facility that contracts with a health**

1 **benefit plan or health care service contractor to provide health care services to an individual**  
2 **insured under the health benefit plan or health care service contract.**

3 **(b) “Out-of-network provider” means an individual or facility that does not contract with**  
4 **a health benefit plan or health care service contractor to provide health care services to an**  
5 **individual insured under the health benefit plan or health care service contract.**

6 **(2) An out-of-network provider that is licensed or certified in this state may not bill an**  
7 **individual insured under a health benefit plan or a health care service contract for the costs**  
8 **of labor or delivery services provided by the out-of-network provider if the services are pro-**  
9 **vided by the out-of-network provider due solely to the diversion of the individual from an**  
10 **in-network provider during a state or federally declared public health emergency.**

11 **(3) Subsection (2) of this section does not prohibit any provider from billing an individual**  
12 **insured under a health benefit plan or health care service contract for coinsurance,**  
13 **copayments or deductibles applicable to labor and delivery services provided by in-network**  
14 **providers under the terms of the health benefit plan or health care service contract.**

15 **SECTION 6. The amendments to ORS 243.144, 243.877, 743A.012 and 743B.287 by sections**  
16 **1 to 4 of this 2022 Act apply to policies or certificates issued, renewed or extended on or after**  
17 **the effective date of this 2022 Act.**

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

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