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 LEÓN, BONHAM, BOSHART DAVIS, BYNUM, DEXTER, GEORGE, GOMBERG, GOODWIN, HELM, HUDSON, LEVY, LIVELY, MARSH, MEEK, MOORE-GREEN, OWENS, PHAM, PRUSAK, REARDON, RESCHKE, SCARF, 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
Relating to insurance; creating new provisions; amending ORS 243.144, 243.877, 743A.012 and 743B.287; and declaring an emergency.

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

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

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

(a) “Emergency services” has the meaning given that term in ORS 743A.012.

(b) “Enrollee” means:

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

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

(c) “Health benefit plan” has the meaning given that term in ORS 743B.005.

(d) “Health care facility” has the meaning given that term in ORS 442.015, excluding long term care facilities.

(e) “Health care service contractor” has the meaning given that term in ORS 750.005.

(f) “In-network” has the meaning given that term in ORS 743B.280.

(g) “Out-of-network” means a provider or provider group that has not contracted or has indirectly contracted with the insurer or health care service contractor.

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

(3) Subsection (2) of this section does not apply:
(a) To applicable coinsurance, copayments or deductible amounts that apply to services provided
by an in-network provider; or
(b) To services, other than emergency services, provided to enrollees who choose to receive
services from an out-of-network provider.

(4) (a) If labor and delivery services are provided to an individual insured under a health
benefit plan or a health care service contract at an out-of-network health care facility due
solely to the diversion of the individual from an in-network health care facility during a state
or federally declared public health emergency, the health benefit plan or health care service
contract:
(A) Shall reimburse the out-of-network provider in accordance with 42 U.S.C. 300gg-111(c)
or in accordance with a method adopted by the Department of Consumer and Business Ser-
vices by rule; and
(B) May not impose a deductible, out-of-pocket maximum, copayment or coinsurance re-
quirement that exceeds the deductible, out-of-pocket maximum, copayment or coinsurance
applicable to in-network providers of labor and delivery services.
(b) This subsection does not apply to services provided by an in-network provider at an
out-of-network health care facility.

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

SECTION 2. ORS 243.144 is amended to read:
243.144. Benefit plans offered by the Public Employees' Benefit Board that reimburse the cost
of medical and other health services and supplies must comply with the requirements for health
benefit plan coverage described in:
(1) ORS 743A.058;
(2) ORS 743B.256;
(3) ORS 743B.420;
(4) ORS 743B.423;
(5) ORS 743B.601; [and]
(6) ORS 743B.810; and
(7) ORS 743B.287 (4).

SECTION 3. ORS 243.877 is amended to read:
243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost
of medical and other health services and supplies must comply with the requirements for health
benefit plan coverage described in:
(1) ORS 743A.058;
(2) ORS 743B.256;
(3) ORS 743B.420;
(4) ORS 743B.423;
(5) ORS 743B.601; [and]
(6) ORS 743B.810; and
(7) ORS 743B.287 (4).
SECTION 4. ORS 743A.012 is amended to read:

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

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

(b) “Behavioral health clinician” means:

(A) A licensed psychiatrist;

(B) A licensed psychologist;

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

(D) A licensed clinical social worker;

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

(F) A certified clinical social work associate;

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

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

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

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

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

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

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

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

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

(C) That is a behavioral health crisis.

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

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

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

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

(A) An emergency medical services transport;

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

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

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

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

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

(L) “Stabilize” means to provide medical treatment as necessary to:

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

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

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

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

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

(3) A health benefit plan, other than a grandfathered health plan, must provide coverage required by subsection (2) of this section:

(a) For the services of participating providers, without regard to any term or condition of coverage other than:

(A) The coordination of benefits;

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

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

(D) Applicable cost-sharing; and

(b) For the services of a nonparticipating provider:

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

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

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

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

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

(a) What constitutes an emergency medical condition;

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

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

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

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

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

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

(a) “In-network provider” means an individual or facility that contracts with a health
benefit plan or health care service contractor to provide health care services to an individual
insured under the health benefit plan or health care service contract.

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

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

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

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

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