

Senate Bill 1046

Sponsored by Senator WAGNER (at the request of Governor Tina Kotek)

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**.

Expands network adequacy requirements to health benefit plans offered to large employers and modifies requirements. Requires Department of Consumer and Business Services to adopt specified standards for network adequacy.

A BILL FOR AN ACT

1
2 Relating to provider networks; amending ORS 743B.505.

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

4 **SECTION 1.** ORS 743B.505 is amended to read:

5 743B.505. (1) [*An insurer*] **A carrier** offering a health benefit plan in this state that provides
6 coverage to individuals, [*or to*] small employers[, *as defined in ORS 743B.005,*] **or large employers**
7 through a specified network of health care providers shall:

8 (a) Contract with or employ a network of providers that is sufficient in number, geographic
9 distribution and types of providers to ensure that all covered services under the health benefit plan,
10 including mental health, [*and*] substance [*abuse treatment*] **use disorder and reproductive health**
11 **care and treatment**, are accessible:

12 (A) To **all** enrollees for initial and follow-up appointments [*without unreasonable delay*]; **and**

13 (B) **In a manner that meets the needs of enrollees who face unique challenges in ac-**
14 **cessing health care, including but not limited to enrollees with diverse cultural and ethnic**
15 **backgrounds, sexual orientations and gender identities and enrollees with physical and men-**
16 **tal disabilities.**

17 (b)(A) With respect to health benefit plans offered through the health insurance exchange under
18 ORS 741.310, contract with a sufficient number and geographic distribution of essential community
19 providers, where available, to ensure reasonable and timely access to a broad range of essential
20 community providers for low-income, medically underserved individuals in the plan's service area in
21 accordance with the network adequacy standards established by the Department of Consumer and
22 Business Services;

23 (B) If the health benefit plan offered through the health insurance exchange offers a majority
24 of the covered services through physicians employed by the [*insurer*] **carrier** or through a single
25 contracted medical group, have a sufficient number and geographic distribution of employed or
26 contracted providers and hospital facilities to ensure reasonable and timely access for low-income,
27 medically underserved enrollees in the plan's service area, in accordance with network adequacy
28 standards adopted by the department [*of Consumer and Business Services*]; or

29 (C) With respect to health benefit plans offered outside of the health insurance exchange, con-
30 tract with or employ a network of providers that is sufficient in number, geographic distribution and
31 types of providers to ensure access to care by enrollees who reside in locations within the health

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 benefit plan's service area that are [*designated by the Health Resources and Services Administration*
 2 *of the United States Department of Health and Human Services as*] health professional shortage areas
 3 or low-income zip codes, **as prescribed by the department by rule.**

4 (c) Annually report to the department [*of Consumer and Business Services*], in the format pre-
 5 scribed by the department, the [*insurer's*] **carrier's** network of providers for each health benefit
 6 plan.

7 (2)(a) [*An insurer*] **A carrier** may not discriminate with respect to participation under a health
 8 benefit plan or coverage under the plan against any health care provider who is acting within the
 9 scope of the provider's license or certification in this state.

10 (b) This subsection does not require [*an insurer*] **a carrier** to contract with any health care
 11 provider who is willing to abide by the [*insurer's*] **carrier's** terms and conditions for participation
 12 established by the [*insurer*] **carrier.**

13 (c) This subsection does not prevent [*an insurer*] **a carrier** from establishing varying re-
 14 imbursement rates based on quality or performance measures.

15 (d) Rules adopted by the department [*of Consumer and Business Services*] to implement this
 16 [*section*] **subsection** shall be consistent with the provisions of 42 U.S.C. 300gg-5 and the rules
 17 adopted by the United States Department of Health and Human Services, the United States De-
 18 partment of the Treasury or the United States Department of Labor to carry out 42 U.S.C. 300gg-5
 19 that are in effect on January 1, 2017.

20 (3) The Department of Consumer and Business Services shall [*use one of the following methods*
 21 *in*] **conduct** an annual evaluation of whether the network of providers available to enrollees in a
 22 health benefit plan meets the requirements of this section[:]

23 [(*a*) *An approach by which an insurer submits evidence that the insurer is complying with at least*
 24 *one of the factors prescribed by the department by rule from each of the following categories:]*

25 [(A) *Access to care consistent with the needs of the enrollees served by the network;*]

26 [(B) *Consumer satisfaction;*]

27 [(C) *Transparency; and*]

28 [(D) *Quality of care and cost containment; or*]

29 [(*b*) **using** a nationally recognized standard adopted by the department and adjusted, as neces-
 30 sary, to reflect the age demographics of the enrollees in the plan.

31 (4)(a) **The department shall adopt by rule standards for evaluating, under subsection (3)**
 32 **of this section, the adequacy of a carrier's network of providers in meeting the requirements**
 33 **of subsection (1) of this section and ensuring access by enrollees to initial and follow-up care**
 34 **without unreasonable delay. The standards may include but are not limited to:**

35 (A) **Standards for geographic access to ensure that specified providers are located within**
 36 **a reasonable distance of the homes and workplaces of all of the enrollees in the carrier's**
 37 **plans;**

38 (B) **Provider to patient ratios to ensure that a sufficient number of providers are avail-**
 39 **able within the carrier's network to serve all of the enrollees in the carrier's plans; and**

40 (C) **Limits on the amount of time an enrollee must wait to be seen to ensure that**
 41 **enrollees in the carrier's plans are not required to wait longer than a specified interval of**
 42 **time between when they request care and when they receive various forms of care.**

43 [(4)] (b) [*In evaluating an insurer's*] **Standards adopted by rule by the department to evalu-**
 44 **ate a carrier's** network of mental and behavioral health providers under subsection (3) of this
 45 section[, *the department shall*] **must** ensure that the network includes[:]

1 [(a)] an adequate number and geographic distribution **in all geographic areas where the car-**
 2 **rier offers plans**, as prescribed by the department by rule, of licensed professional counselors, li-
 3 censed marriage and family therapists, licensed clinical social workers, psychologists and
 4 psychiatrists who are accepting new patients, based on the needs of the *[insureds under the policy*
 5 *or certificate]* **enrollees in the carrier’s plans**, including but not limited to providers who can ad-
 6 dress the needs of:

- 7 (A) Children and adults;
- 8 (B) Individuals with limited English proficiency or who are illiterate;
- 9 (C) Individuals with diverse cultural or ethnic backgrounds;
- 10 (D) Individuals with chronic or complex behavioral health conditions; and
- 11 (E) Other groups specified by the department by rule[; and].

12 [(b) *An adequate number of the providers described in paragraph (a) of this subsection in all ge-*
 13 *ographic areas where the insurer offers plans.*]

14 (5) This section does not require *[an insurer]* **a carrier** to contract with an essential community
 15 provider that refuses to accept the *[insurer’s]* **carrier’s** generally applicable payment rates for ser-
 16 vices covered by the plan.

17 (6) This section does not require *[an insurer]* **a carrier** to submit provider contracts to the de-
 18 partment for review.

19 (7) **As used in this section, “carrier” and “small employers” have the meanings given**
 20 **those terms in ORS 743B.005.**

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