

Third-party administrators

HB 2277-1

Background

As defined in ORS 744.702, a third-party administrator (TPA) is an entity that directly or indirectly solicits or effects coverage of, underwrites, collects charges or premium from, or adjusts or settles claims, in connection with life insurance or health insurance coverage. In simple terms, a TPA is a company that handles some portion of the day to day operations of a life or health insurance plan, without bearing the risk of loss under that plan.

TPAs generally work with two broad categories of insurance plans, “fully insured” plans, which are offered by licensed insurance companies and “self-funded” plans, which are offered by employers that elect to finance the cost of employee benefits directly, without purchasing group insurance. Under existing law, any TPA that works with fully insured plans must be licensed with the Division of Financial Regulation (DFR). However, because the Employee Retirement Security Act (ERISA) limits state authority to regulate self-funded plans, a TPA that works exclusively with self-funded employer plans is only required to annually register with division.

Licensed insurers may also act as a TPA, including for self-funded employers. This can be confusing to a consumer who assumes that the coverage is being provided by the insurance company rather than the employer. Moreover, because insurers are currently exempt from the TPA statutes, the division has very little insight on the extent to which Oregon health insurers are acting as TPAs for self-funded employer plans. This has made it difficult for the division to effectively process consumer complaints related to those plans.

Key changes under the -1 Amendment

HB 2277-1 would make four key changes to Oregon’s current TPA law:

1. *Require health insurers that act as TPAs for self-funded plans to register with the division and provide a list of the plans they administer* – Receiving this information will give DFR additional information about a domestic health insurer’s TPA activities while also recognizing the limits on state regulatory authority under ERISA.
2. *Clarify the responsibility of an insurer that uses a third-party administrator* – The -1 Amendment would add language, consistent with guidelines issued by the National Association of Insurance Commissioners, providing that an insurer that uses the services of a TPA is responsible for the acts of its TPA.
3. *Pharmacy benefit managers that engage in TPA activities* – The -1 clarifies the issuance of a TPA license does not excuse a pharmacy benefit manager from the registration requirement under ORS Chapter 735.
4. *TPA License Fees* – The -1 would establish the annual fee for a TPA license at \$200 per year and give the division authority to increase the amount of the fee by rule if necessary in the future.