

Oregon's Health Insurers Urge You to Oppose HB 3243

Oregon's health insurance industry is a highly regulated sector of the economy, and consumers have significant assistance from the state in helping navigate any claims issues or insurance related disputes that arise. The Department of Consumer and Business Services already has robust consumer protections in place that help ensure consumers have an advocate with a deep understanding of insurance who can help them navigate the claims resolution process. Allowing class action lawsuits will increase consumer costs without improving consumer outcomes.

HB 3243 would increase the potential for significant class action litigation against insurers while doing little to improve consumer outcomes, and would increase the cost of health insurance, and ultimately health care, for Oregonians. We urge you to oppose HB 3243.

Insurance is Highly Regulated, from Policy Development through Claims Resolution.

Insurance regulation includes multi-layered and comprehensive processes for reviewing what rates and policies carriers may offer, handling consumer complaints, examining the market conduct of carriers and ensuring compliance with the law. The Department of Consumer and Business Services reviews the policies and rates that insurers charge customers, including the specific policy language that insurers use with consumers. They also help resolve consumer complaints by working directly with members and maintaining an external review process of insurer decisions. Finally, they closely regulate the market conduct of carriers, and assess penalties if there are issues with administration of health insurance policies.

Consumers Have Advocates within the Department of Consumer and Business Services That Can Resolve Issues More Quickly than a Class Action Lawsuit.

The Department of Consumer and Business Services maintains a robust team of consumer advocates who work directly with insurance carrier compliance staff to ensure members receive the benefits promised to them. Consumer advocates work quicker - most confirmed consumer complaints are resolved within 30 days - and deliver more specific performance than almost any class-action lawsuits would deliver for members. ***According to figures from the department, the team has recovered \$8,260,453 in benefits for plan members for 2022 alone.***

Unlike class-action lawsuits, which tend to seek specific damages, the department can also initiate market conduct examinations. Market conduct examinations may originate from a variety of sources, including consumer complaints and actions taken by other states. Unlike in civil discovery, where parties may argue about privilege and scope, market analysts have authority under the Insurance Code to compel information, which must be produced promptly and truthfully.¹ Market analysts may recommend specific changes to policies or procedures that may be subject to a settlement agreement or can refer cases to Enforcement. ***In 2022 alone, the market conduct team opened 148 cases and closed 147 of them.***

¹ ORS 731.296

Finally, in cases where the department determines a carrier acted contrary to the Insurance Code, the Enforcement Team may partner with DOJ or other states, or act on their own, to apply the myriad enforcement tools against the carrier:

- Cease and desist orders - ORS 731.252
- Restitution orders - ORS 731.258
- Civil penalties - ORS 731.988
- Criminal penalties - ORS 731.992

Allowing New Class Actions Would Increase Health Care Premiums without Improving Consumer Outcomes.

HB 3243 would allow new class action lawsuits against insurers for any alleged violation of Oregon’s Unfair Claims Settlement Practices Act. This statute is currently enforced by the Department of Consumer and Business Services and was never intended to form the basis of a private cause of action. Allowing private lawsuits may greatly increase litigation against insurers, including frivolous lawsuits, to the detriment of consumers. Lawyers with a financial stake in the outcome of the case could push for litigation over utilizing the highly effective and cost-efficient DCBS resolution process. Insurance carriers may also feel the need to protect themselves in the broader complaint process, making quick resolution by consumer advocates untenable. We believe that the result will be worse outcomes and increased costs for consumers.

We urge the committee to allow the current Department of Consumer and Business Services process to continue to support consumers, and not create new work for trial lawyers when the agency process can support consumers at no consumer cost. **Please oppose HB 3243.**

