

A-Engrossed House Bill 2564

Ordered by the House March 21
Including House Amendments dated March 21

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Department of Consumer and Business Services)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Makes some changes to the process for reviewing insurance rates. (Flesch Readability Score: 61.3).

Revises the insurance rate review process.

A BILL FOR AN ACT

1
2 Relating to the insurance rate review process; amending ORS 743.018 and 743.019.

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

4 **SECTION 1.** ORS 743.018 is amended to read:

5 743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015,
6 every insurer shall file with the Director of the Department of Consumer and Business Services all
7 schedules and tables of premium rates for life and health insurance to be used on risks in this state,
8 and shall file any amendments to or corrections of such schedules and tables. Premium rates are
9 subject to approval, disapproval or withdrawal of approval by the director as provided in ORS
10 742.003, 742.005, 742.007 and, for health benefit plans as defined in ORS 743B.005, ORS 743.019.

11 (2) Except as provided in ORS 743B.013 and subsection (3) of this section, a rate filing by a
12 carrier for any of the following health benefit plans subject to ORS 743.004, 743.022, 743.535 and
13 743B.003 to 743B.127 shall be available for public inspection immediately upon submission of the
14 filing to the director:

15 (a) Health benefit plans for small employers.

16 (b) Individual health benefit plans.

17 (3) The director may by rule:

18 (a) Specify all information a carrier must submit as part of a rate filing under this section;
19 *[and]*

20 **(b) Specify the form and manner of a consumer-friendly summary document to be sub-**
21 **mitted as part of a rate filing under this section; and**

22 *[(b)]* (c) Identify the information submitted that will be exempt from disclosure under this section
23 because the information constitutes a trade secret and would, if disclosed, harm competition.

24 (4) The director, after conducting an actuarial review of the rate filing, may approve a proposed
25 premium rate for a health benefit plan for small employers or for an individual health benefit plan
26 if, in the director's discretion, the proposed rates are:

27 (a) Actuarially sound;

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 (b) Reasonable and not excessive, inadequate or unfairly discriminatory; and

2 (c) Based upon reasonable administrative expenses.

3 (5) In order to determine whether the proposed premium rates for a health benefit plan for small
4 employers or for an individual health benefit plan are reasonable and not excessive, inadequate or
5 unfairly discriminatory, the director may consider:

6 (a) The insurer's financial position, including but not limited to profitability, surplus, reserves
7 and investment savings.

8 (b) Historical and projected administrative costs and medical and hospital expenses, including
9 expenses for drugs reported under ORS 743.025.

10 (c) Historical and projected loss ratio between the amounts spent on medical services and
11 earned premiums.

12 (d) Any anticipated change in the number of enrollees if the proposed premium rate is approved.

13 (e) Changes to covered benefits or health benefit plan design.

14 (f) Changes in the insurer's health care cost containment and quality improvement efforts since
15 the insurer's last rate filing for the same category of health benefit plan.

16 (g) Whether the proposed change in the premium rate is necessary to maintain the insurer's
17 solvency or to maintain rate stability and prevent excessive rate increases in the future.

18 (h) Any public comments received under ORS 743.019 pertaining to the standards set forth in
19 subsection (4) of this section and this subsection.

20 (6) The director shall require insurers to charge the same premium for a plan sold through the
21 health insurance exchange as the insurer charges for the identical plan sold outside of the exchange.

22 (7) The requirements of this section do not supersede other provisions of law that require
23 insurers, health care service contractors or multiple employer welfare arrangements providing
24 health insurance to file schedules or tables of premium rates or proposed premium rates with the
25 director or to seek the director's approval of rates or changes to rates.

26 **SECTION 2.** ORS 743.019 is amended to read:

27 743.019. (1) When an insurer files a schedule or table of premium rates for individual or small
28 employer health benefit plans under ORS 743.018, the Department of Consumer and Business Ser-
29 vices shall open a 30-day public comment period on the rate filing that begins on the date the
30 insurer files the schedule or table of premium rates. The department shall post all of the comments
31 received to the department's website without delay.

32 (2) After the close of the public comment period described in subsection (1) of this section, the
33 department shall issue a [*preliminary decision*] **proposed order** to approve, disapprove or modify a
34 rate filing. The department shall notify the insurer of, and make available to the public, the [*pre-*
35 *liminary decision*] **proposed order**, including:

36 (a) An explanation of the findings and rationale that are the basis for the [*preliminary*
37 *decision*] **proposed order**; and

38 (b) Any actuarial or other analyses, calculations or evaluations relied upon by the department
39 in arriving at the [*preliminary decision*] **proposed order**.

40 (3) The department shall provide the insurer or any person adversely affected or aggrieved by
41 the [*preliminary decision*] **proposed order** the opportunity to meet with the department to discuss
42 and respond to the [*preliminary decision*] **proposed order**. However, an insurer or other person may
43 not substitute new facts or data for the facts or data submitted by the insurer in the filing. The
44 meeting shall:

45 (a) Include a department employee who reviewed the rate filing; and

1 (b) Comply with the requirements of ORS 192.610 to 192.705.

2 (4)(a) The department shall issue a *[proposed]* **final** order, no later than 30 days after the de-
3 partment issues a *[preliminary decision]* **proposed order** under subsection (2) of this section, to ap-
4 prove, disapprove or modify the rate filing based on the *[information submitted during the public*
5 *comment period]* **meeting held under subsection (3) of this section.**

6 (b) In issuing the *[proposed]* **final** order, the department may not consider new facts or data that
7 are offered as a substitute for the facts or data submitted by the insurer in the filing.

8 (c) The department shall mail the *[proposed]* **final** order to the insurer and post the *[proposed]*
9 **final** order to the department's website.

10 (d) The *[proposed]* **final** order must include:

11 (A) An explanation of the findings and rationale that are the basis for the *[proposed]* **final** order,
12 including any actuarial or other analyses, calculations or evaluations relied upon by the department
13 in its findings or rationale; and

14 (B) Notice of the right of the insurer or any person adversely affected or aggrieved by the
15 *[proposed]* **final** order to *[request a review by]* **petition** the Director of the Department of Consumer
16 and Business Services **for reconsideration**, in accordance with subsection *[(6)]* **(5)** of this section,
17 no later than 10 days after the date that the *[proposed]* **final** order was issued.

18 *[(5) If the insurer or person adversely affected or aggrieved by the proposed order does not timely*
19 *request a review of the proposed order by the director, the director shall issue a final order as de-*
20 *scribed in subsection (6)(d) of this section.]*

21 *[(6)]* **(5)** If the insurer or a person adversely affected or aggrieved by the *[proposed]* **final** order
22 timely *[requests a review by the director of the proposed]* **petitions the director to reconsider the**
23 **final** order:

24 (a) The requester may not substitute new facts or data for the facts and data that were sub-
25 mitted by the insurer in the filing, but may provide a brief, memorandum or analysis based on the
26 evidence contained in the filing or received and considered by the department during the public
27 comment period;

28 (b) The director may not delegate the decision-making authority for the request for review to
29 any other individual;

30 (c) The director shall issue a final order **upon reconsideration** no later than 30 days after the
31 *[request for review]* **petition for reconsideration** is received by the director; and

32 (d) The final order **upon reconsideration** shall *[include]*:

33 (A) **Include** an explanation of the findings and rationale that are the basis for the final order;
34 and

35 (B) *[Notice of the right to a contested case hearing in accordance with ORS chapter 183]* **Be**
36 **mailed to the insurer and posted on the department's website.**

37 *[(7)(a)]* **(6)(a)** If, following the issuance of a final order **or final order upon reconsideration**
38 under subsection *[(6)(c)]* **(4) or (5)** of this section but before the effective date of the premium rates
39 approved by the final order, an event occurs that materially affects the director's decision to ap-
40 prove the rates, the director may open a new public comment period for a period of time that the
41 director determines is necessary to receive comments concerning the event. Based upon the event
42 and the public comments received, the director shall affirm the final order **or final order upon**
43 **reconsideration** by providing a written explanation of the basis for affirming the final order **or**
44 **final order upon reconsideration** or issue a new proposed order, as described in subsection *[(4)]*
45 **(2)** of this section.

1 (b) In the consideration of public comments or the event described in paragraph (a) of this sub-
2 section or in issuing any new proposed order, the director:

3 (A) May not consider new facts or data that are offered as a substitute for the facts or data
4 submitted by the insurer in the original filing.

5 (B) May consider supplemental facts or data reasonably related to the event described in para-
6 graph (a) of this subsection.

7 **(7) A final order or final order upon reconsideration issued pursuant to this section is**
8 **subject to review under ORS 183.484.**

9 (8) Subsections (2) to [(7)] **(6)** of this section do not require the department to perform any
10 actuarial or other analyses, calculations or evaluations.

11 (9) The department may adopt rules modifying the procedures described in subsections (2) to
12 [(7)] **(6)** of this section, but only to the extent necessary to comply with 42 U.S.C. 300gg-94.

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