

## HB 4054 STAFF MEASURE SUMMARY

### Joint Committee On Information Management and Technology

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**Prepared By:** Sean McSpaden, Committee Coordinator

**Meeting Dates:** 2/6

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#### WHAT THE MEASURE DOES:

House Bill 4054 requires certain health insurers to notify a health care provider each time the insurer uses artificial intelligence or other automated technology to automatically downcode a claim for reimbursement submitted by the provider. The measure further requires insurers to make an appeals process available to a provider who has had a claim automatically downcoded using artificial intelligence or other automated technology.

Fiscal impact: *May have fiscal impact, but no statement yet issued.*

Revenue impact: *May have revenue impact, but no statement yet issued.*

Operative Date: January 1 of the year after the passage of the act.

#### Detailed Summary

- Defines what it means to “downcode a claim.” As defined, this action means to change the billing code for a claim for reimbursement submitted to an insurer by a provider on behalf of an enrollee to a billing code that has a lower reimbursement rate than the billing code contained in the original claim submitted by the provider.
- Highlights that provisions within existing statute (ORS 743B.423) currently require certain health insurers offering a health benefit plan in this state that provide utilization review or have utilization review provided on their behalf to take specific actions, including (but not limited to):
  - Providing timely notice of denials to providers;
  - Making an opportunity for a timely appeal available to any provider who has had a request for treatment or payment for services denied for specified reasons.
  - Establishing a website that includes posting of specific information.
- Amends ORS 743B.423 to require specified health insurers to take specific additional actions if an artificial intelligence, algorithm or other software tool is used in the utilization review process to automatically downcode a claim. If this occurs, the insurer must:
  - Within specified timeframes, give the provider written notice that includes (among other information) disclosure of the use, the specific reason for downcoding the claim and a description of the insurer’s applicable appeals process and time limits within which a provider must request an appeal of a downcoded claim.
  - Make available to any provider who has had a claim downcoded in the manner described an opportunity for a timely appeal before an appropriate medical consultant or peer review committee. The appeals process must be consistent with the process for requesting additional payment from a health insurer to satisfy a claim under ORS 743B.453.
- Amendments to ORS 743B.423 by section 1 of this 2026 Act apply to health benefit plans issued, renewed or extended on or after the effective date of this 2026 Act.

#### ISSUES DISCUSSED:

#### EFFECT OF AMENDMENT:

No amendment.

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*This summary has not been adopted or officially endorsed by action of the committee.*

**BACKGROUND:**

According to the American Medical Association, health insurers/payers are increasingly using automated technology (e.g. artificial intelligence (AI), algorithms) to employ a method of claims processing and payment called downcoding. Downcoding is used to automatically review and reduce the reimbursement level of claims submitted by providers and is often conducted without human review of medical records. Oftentimes the provider is not even aware that their claims have been downcoded (individual or batch claims) and, based on algorithmic review alone, reimbursed at, presumably, lower rates.

Under ORS 743B.423 (2), the utilization review activities of insurers offering a health benefit plan are subject to certain requirements. One such requirement is that “[t]he criteria and the process used in the utilization review and the method of development of the criteria must be made available for review to contracting providers.” Although “downcoding” or the use of AI is not explicitly referenced, it is likely that “the process used in the utilization review” is broad enough to include the process of reducing a billing code for a claim for reimbursement and whether automated technology is used in that process. However, Oregon insurers are not explicitly required under current Oregon law to be transparent about the use of “downcoding,” or to disclose the use of AI in the utilization review process, generally. Further, it does not appear that Oregon’s statutes regulating health insurers currently provide for an appeals process for a provider who has had a claim downcoded.