

HB 4040-7
(LC 241)
2/26 (RH/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE (at the request of Representative Rob Nosse)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4040**

- 1 On page 2 of the printed bill, line 4, after “685.102,” insert “743A.145.”.
- 2 On page 28, after line 40, insert:
- 3 **“SECTION 36a.** ORS 743A.145 is amended to read:
- 4 “743A.145. (1) As used in this section:
- 5 “(a) ‘Device’ means:
- 6 “(A) An orthotic device.
- 7 “(B) A prosthetic device.
- 8 “(b) ‘Orthotic device’ means a rigid or semirigid device supporting a weak
- 9 or deformed leg, foot, arm, hand, back or neck, or restricting or eliminating
- 10 motion in a diseased or injured leg, foot, arm, hand, back or neck.
- 11 “(c) ‘Prosthetic device’ means an artificial limb device or appliance de-
- 12 signed to replace in whole or in part an arm or a leg.
- 13 “(2) All individual and group health insurance policies providing coverage
- 14 for the expenses of hospital, medical or surgical services or supplies shall
- 15 provide coverage for devices. The coverage required by this subsection in-
- 16 cludes:
- 17 “(a) Devices that are determined to be medically necessary to restore or
- 18 maintain the ability to complete activities of daily living or essential job-
- 19 related activities [*and that are not solely for comfort or convenience*].
- 20 “(b) All services and supplies medically necessary for the effective use of
- 21 a device, including design formulation, fabrication, material and component

1 selection, measurements, fittings, static and dynamic alignments and patient
2 instruction in the use of the device.

3 “(c) Replacement of a device or any part of a device, if the replacement
4 is determined to be medically necessary, based on:

5 “(A) A change in the physiological condition of the insured;

6 “(B) An irreparable change in the condition of the device or part of the
7 device; or

8 “(C) The device, or a part of the device, requiring repair and the cost of
9 the repair would be more than 60 percent of the cost of the replacement de-
10 vice or replacement part of the device.

11 “(d) Repair of a device or any part of a device, if the repair is determined
12 to be medically necessary, based on:

13 “(A) A change in the physiological condition of the insured; or

14 “(B) A change in the condition of the device or part of the device.

15 “(e) Devices that are determined to be medically necessary and the most
16 appropriate model that meets the medical needs of the insured for purposes
17 of performing physical activities, including but not limited to running, bik-
18 ing, swimming and strength training, and that maximizes the insured's
19 whole-body health, including lower and upper limb function.

20 “(3) The Director of the Department of Consumer and Business Services
21 shall adopt and annually update rules listing the devices covered under this
22 section. The list shall be no more restrictive than the list of devices and
23 supplies in the Medicare fee schedule for Durable Medical Equipment, Pros-
24 thetics, Orthotics and Supplies, but only to the extent consistent with this
25 section.

26 “(4) The coverage required by subsection (2) of this section may be made
27 subject to, and no more restrictive than, the provisions of a health insurance
28 policy that apply to other benefits under the policy.

29 “(5) If the coverage under subsection (2) of this section is provided
30 through a managed care organization, the insured shall have access to med-

1 ically necessary clinical care and to devices and technology from not fewer
2 than two distinct Oregon prosthetic and orthotic providers in the managed
3 care organization's provider network.

4 “(6) An individual or group health plan may not deny coverage for a
5 prosthetic or orthotic benefit for an insured with limb loss, impairment or
6 absence to restore or maintain the ability to perform a physical activity if
7 a benefit would be covered for medical or surgical intervention for a person
8 without limb loss, impairment or absence to restore or maintain the ability
9 to perform the same physical activity.

10 “(7) For coverage described in subsection (2)(c) of this section, an insurer
11 may require confirmation from the prescribing health care provider that the
12 coverage is medically necessary if the device, or any part of the device, re-
13 quires replacement and is less than three years old.

14 “(8) This section is exempt from ORS 743A.001.

15 “(9) The coverage requirements described in subsections (2)(e), (6) and (7)
16 of this section do not apply to a health benefit plan offered by the Public
17 Employees' Benefit Board or the Oregon Educators Benefit Board, unless the
18 plans offered by the Public Employees' Benefit Board or the Oregon Edu-
19 tors Benefit Board elect to provide the coverage and provide notice to the
20 Department of Consumer and Business Services in the form and manner de-
21 scribed by the department by rule.”.

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