



February 5, 2026

Representative Nathan Sosa, Chair  
Representative Virgle Osborne, Vice-Chair  
Representative Farrah Chaichi, Vice-Chair  
Oregon Legislative Assembly  
House Committee on Commerce and Consumer Protection  
900 Court St NE  
Salem, OR 97301

Delivered via OLIS.

**Re: Opposition to HB 4098**

Chair Sosa, Vice-Chair Osborne and Chaichi, and Members of the Committee:

The PacificSource companies are independent, not-for-profit health insurance providers based in Oregon. We serve over 500,000 commercial, Medicaid, and Medicare Advantage members in three states. PacificSource Community Solutions is the contracted coordinated care organization (CCO) in Central Oregon, the Columbia River Gorge, and Marion & Polk Counties. Our mission is to provide better health, better care, and better value to the people and communities we serve.

As a local, taxpaying not-for-profit health plan, we write to express our strong opposition to House Bill 4098. We have served Oregonians for over ninety years, as in that time the organization has experienced substantial changes to the nature of health insurance. Health insurance is a completely different regime, in both its function and its regulation. Particularly after the passage of the Affordable Care Act, health insurance might be thought of both a prepaid health maintenance plan – i.e., preventive and routine care that is planned and predictable – as well as a catastrophic plan, insuring against rare risks. While some people may never experience a catastrophic illness, they will undoubtedly need routine and preventive care.

This difference manifests in how the state regulates health plans. Unlike in most other lines of insurance, health plans must submit rates to the Insurance Commissioner, who may increase or decrease the rates to ensure that the plan is not excessively expensive nor too inexpensive to deter plan insolvency. Health insurance benefits are generally standardized, following “metal-level” tiers that change depending on how much responsibility a person shares in the payment of care. Oregonians enjoy “guaranteed issue,” or the requirement that health plans accept any person who applies for insurance. The only allowable underwriting criteria in the Affordable Care Act is whether a person uses tobacco; plans may charge up to 50% more for those who use tobacco but are otherwise not able to alter rates based on a person’s preexisting conditions or health risks.

This difference is readily apparent in the resource consumers enjoy with respect to the benefits promised to them under their contract. Oregonians may pursue parallel tracks of efficient, speedy recourse when they believe that the benefits promised to them by the contract are not being delivered. The first track is the internal appeal process within the insurance company. If a person is not satisfied with the results of internal appeals. An independent review organization is selected by DCBS to hear the issue and make a determination. The decision of the IRO is both binding and not appealable; plans must abide by the decision of the IRO.

At the same time, a consumer may contact the consumer advocacy team at DCBS for assistance with their insurance matter. The consumer advocates determine if a complaint is “confirmed,” or has some basis in the Insurance Code, and attempt a resolution directly with the health plan. Health plans must cooperate; failing to do so would result in escalating administrative sanctions available to the Insurance Commissioner. According to 2025 data, consumer advocates took over 5,663 calls and ensured that \$7,039,774 in benefits went to consumers.<sup>1</sup> While some of those “recoveries” did involve other financial products, most inquiries involve insurance.

Ironically, one of the two types of insurance exempted by House Bill 4098 – workers’ compensation insurance – has one exclusive remedy available to claimants who believe they are not receiving the benefits owed them: an administrative remedy from DCBS. This remedy was established in 1995 through Senate Bill 369, one of the key workers compensation reforms that led to a marked reduction in premium assessments.<sup>2</sup> The 1990 and 1995 reforms to the workers compensation system were initiated to address alarming high costs for workers compensation insurance while benefit levels suffered.<sup>3</sup>

Unlike what happened with workers compensation insurance, however, the Assembly seems to be choosing the path of unaffordable premiums and unintended consequences.

ORS 746.230 was never meant to be enforced through the courts. It is instead derived from a model law developed by the National Association of Insurance Commissioners, who separated unlawful claims settlement practices from the larger trade practice model laws. A drafting note appended to the purpose of the model law clearly states that “[a] jurisdiction choosing to provide for a private cause of action should consider a different statutory scheme. ***This Act is inherently inconsistent with a private cause of action.*** This is merely a clarification of original intent and not indicative of any change of position. The NAIC has promulgated the Unfair Property/Casualty Claims Settlement Practices and the Unfair Life, Accident and Health Claims Settlement Practices Model Regulations pursuant to this Act.”<sup>4</sup>

For health insurance in particular, the cross-reference to ORS 746.230 would create a private right of action for alleged violations of the Unfair Claims Settlement Practices Act (Act). Perhaps unwittingly to the proponents, ORS 746.230 also includes violations ORS 746.233, which changed in 2019 due to an agency-requested filed bill, Senate Bill 249.<sup>5</sup> That bill, related to prior authorizations, made handling of prior authorizations a separate violation of the Act. The understanding at the time was that the agency itself needed more enforcement tools over the existing laws around prior authorization. If health insurers may be held to first- and third-party causes of action for prior authorization requests, even if unfounded, the impact on health care

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<sup>1</sup> Dept. of Consumer & Bus. Svcs, *Consumer Advocacy* (available at: <https://dfr.oregon.gov/business/reg/dfr-market-regulation/pages/dfr-consumer-advocacy.aspx>) (visited Feb. 2, 2026)

<sup>2</sup> Legislative Policy and Research Office, *Background Brief on Workers’ Compensation* (Sept 2012) (available at: <https://www.oregonlegislature.gov/lpro/Publications/WorkersCompensation.pdf>)

<sup>3</sup> *Id.*

<sup>4</sup> See Nat’l Ass’n of Ins. Comm’rs, *Unfair Claims Settlement Practices Act MO-900-1* (available at <https://content.naic.org/sites/default/files/model-law-900.pdf>) (Emphasis added).

<sup>5</sup> 2019 Or Laws ch 284.

will be dramatic. If health insurers have no ability to provide a reasonable check on requested drugs, devices or procedures, the result will be unaffordable premiums.

In terms of unintended consequences, ORS 746.230 also contains provisions that make sense when read as an administrative enforcement statute, but not a statute enforceable in a judicial setting. For example, ORS 746.230(2) contains a prohibition on refusal to pay or settle claims as a general business practice. Paragraph (a) of that subsection treats a “substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services” as evidence of refusal to pay or settle claims. This may make sense in an administrative context, where DCBS would have vetted complaints for confirmation they may be contrary to the Insurance Code. But a plaintiff will not likely know that complaints are “confirmed,” as discussed above.

Similarly, paragraph (2)(b) considers evidence of a general business practice to include a substantial increase in the number of lawsuits filed against the insurer. Linking a private right of action to this section might create the impression that there is a general business practice of something not occurring. This might turn into a recurring loop of lawsuits filed against insurers for the same issue.

With so many unintended consequences and the possibility of unsustainable increases in premiums individuals and small businesses pay, we would urge the committee table this legislation for the short session. We urge the committee to choose the path of legislatures past and continue to invest in the administrative remedies consumers already enjoy to keep health care more affordable.

Please do not hesitate to contact me at [richard.blackwell@pacificsource.com](mailto:richard.blackwell@pacificsource.com) for questions or follow-up.

Sincerely,

/s

Richard Blackwell  
Director, Oregon Government Relations