

House Bill 2944

Sponsored by Representative CLEM (Pre-session filed.)

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 **as introduced**.

Requires insurers to provide notice by certified mail prior to cancellation, rescission or nonrenewal of individual health insurance policy or cancellation of health benefit plan. Specifies grounds for rescission of individual health insurance policy. Prohibits seller of individual health insurance policy from denying claim based on cancellation, rescission or renewal of policy if insurer has failed to comply with stated requirements. Requires group health insurer to continue coverage until notice requirements are met.

A BILL FOR AN ACT

1
2 Relating to health insurance; creating new provisions; and amending ORS 743.472, 743.560 and
3 743.565.

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

5 **SECTION 1.** ORS 743.472 is amended to read:

6 743.472. (1) An insurer selling individual health insurance policies may cancel or refuse to re-
7 new an individual health insurance policy only if the insurer makes a determination to cancel or
8 not to renew all policies of the same type and form as the individual policy, or if the ground for
9 cancellation or nonrenewal is any of the following and is stated as a provision of the policy:

10 [(1)] (a) A fraudulent or material misstatement made by the applicant in an application for the
11 health policy. A material misstatement is subject to any time limit, as specified by law and included
12 in the policy, for voiding the policy on the basis of a misstatement. For purposes of this subsection,
13 a misstatement may include an incorrect statement or a misrepresentation, omission or concealment
14 of fact;

15 [(2)] (b) Excess or other insurance in the same insurer, as described in ORS 743.456;

16 [(3)] (c) Nonpayment of premium; or

17 [(4)] (d) Any other reason specified by the Director of the Department of Consumer and Business
18 Services by rule.

19 (2) **An insurer selling individual health insurance policies may not rescind an individual
20 health insurance policy unless the insured, or a person when applying for coverage on behalf
21 of the insured:**

22 (a) **Performs an act, practice or omission that constitutes fraud; or**

23 (b) **Makes an intentional misrepresentation of a material fact as prohibited by the terms
24 of the policy.**

25 (3) **An insurer selling an individual health insurance policy shall mail to the policyholder
26 a written notice of any cancellation, rescission or nonrenewal of the policy to the
27 policyholder's last-known address by certified mail, return receipt requested. The notice
28 must include the effective date of the action and the reasons for the action.**

29 (4) **An insurer shall mail the notice of cancellation or rescission described in subsection**

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 **(3) of this section:**

2 (a) **At least 10 days prior to the effective date of any rescission or of any cancellation**
 3 **that is for a reason described in subsection (1)(a) or (b) of this section.**

4 (b) **For nonpayment of a premium, at least 10 days prior to the end of the grace period**
 5 **informing the policyholder that the premium was not received and that the policy will be**
 6 **terminated as of the premium due date if the premium is not received by the end of the ap-**
 7 **licable grace period required by ORS 743.417.**

8 (c) **At least 30 days prior to the effective date of cancellation, if the cancellation is for**
 9 **a reason described in subsection (1)(d) of this section.**

10 (5) **An insurer shall mail the notice of nonrenewal described in subsection (3) of this**
 11 **section at least 30 days prior to the expiration of the policy period.**

12 (6) **An insurer selling individual health insurance policies may not deny a claim based**
 13 **upon the cancellation, rescission or nonrenewal of a policy if the insurer has not complied**
 14 **with the requirements of this section.**

15 **SECTION 2.** ORS 743.560 is amended to read:

16 743.560. (1) A group health insurance policy shall contain a provision allowing a minimum grace
 17 period of 10 days after the premium due date for payment of premium.

18 (2) An insurer of a group health insurance policy providing coverage for hospital or medical
 19 expenses, other than coverage limited to expenses from accidents or specific diseases, that seeks to
 20 terminate a policy for nonpayment of premium shall notify the policyholder as described in ORS
 21 743.565.

22 (3) An insurer of a group health insurance policy providing coverage for hospital or medical
 23 expenses, other than coverage limited to expenses from accidents or specific diseases, shall notify
 24 the group policyholder when the policy is terminated and the coverage is not replaced by the group
 25 policyholder. The notice required under this subsection:

26 (a) Must be given on a form prescribed by the Department of Consumer and Business Services;

27 (b) Must explain the rights of the certificate holders regarding continuation of coverage pro-
 28 vided by federal and state law and portability coverage in accordance with ORS 743.760; and

29 (c) Must be given by mail and must be mailed not later than 10 working days after the date on
 30 which the group policy terminates according to the terms of the policy.

31 (4) A group health insurance policy to which subsection (3) of this section applies shall contain
 32 a provision requiring the insurer to notify the group policyholder when the policy is terminated and
 33 the coverage is not replaced by the group policyholder. Each certificate issued under the policy
 34 shall also contain a statement of the provision required under this subsection.

35 (5) If an insurer fails to give notice as required by **ORS 743.565 and** this section, the insurer
 36 shall continue the group health insurance policy of the group policyholder in full force from the date
 37 notice should have been provided until the date that the notice is received by the policyholder and
 38 shall waive the premiums owing for the period for which the coverage is continued under this sub-
 39 section. The time period within which the certificate holder may exercise any right to continuation
 40 or portability shall commence on the date that the policyholder receives the notice.

41 (6) The insurer shall supply the employer holding the terminated policy with the necessary in-
 42 formation for the employer to be able to notify properly the employee of the employee's right to
 43 continuation of coverage under state and federal law and portability coverage in accordance with
 44 ORS 743.760.

45 **SECTION 3.** ORS 743.565 is amended to read:

1 743.565. Before a health insurer selling [*an individual policy or*] a group health benefit plan, as
2 defined in ORS 743.730, may cancel a policy for nonpayment of premium, the insurer must mail a
3 separate notice to the policyholder at least 10 days prior to the end of the grace period informing
4 the policyholder that the premium was not received and that the policy will be terminated as of the
5 premium due date if the premium is not received by the end of the applicable grace period required
6 by ORS [*743.417 and*] 743.560. The notice shall be in writing and mailed by [*first class*] **certified**
7 mail, **return receipt requested**, to the last-known address of the policyholder.

8 **SECTION 4. The amendments to ORS 743.472, 743.560 and 743.565 by sections 1 to 3 of this**
9 **2011 Act apply to policies or certificates issued or renewed on or after the effective date of**
10 **this 2011 Act.**