House Bill 2605

Sponsored by Representative NOSSE (Presession 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 submit rate filings to Department of Consumer and Business Services no later than eight months prior to beginning of open enrollment period for health insurance exchange. Requires department to make preliminary decision on rate filing within 10 days after close of public comment period and to notify insurer in writing if preliminary decision is to disapprove rate filing. Allows insurer opportunity to meet with Director of Department of Consumer and Business Services and provide additional information if preliminary decision is to disapprove rate. Requires director to make final decision on rate filing within 30 days of close of public comment period.

If insurer contests denial of rate filing within 10 days of notice, requires final order in contested case hearing to be entered no later than 90 days prior to beginning of open enrollment period for plan for which rates were submitted.

A BILL FOR AN ACT

Relating to insurance; amending ORS 742.003, 743.018 and 743.019.

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

SECTION 1. ORS 743.018 is amended to read:

743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015, every insurer shall file with the Director of the Department of Consumer and Business Services all schedules and tables of premium rates for life and health insurance to be used on risks in this state, and shall file any amendments to or corrections of such schedules and tables. [*Premium rates are subject to approval, disapproval or withdrawal of approval by the director as provided in ORS 742.003, 742.005 and 742.007.*] **The director may approve, disapprove or withdraw the approval of an insurer's schedule or table of premium rates as provided in ORS 742.003, 742.005, 742.007 and 743.019. The director may not prescribe a specific schedule or table of premium rates for an insurer.**

(2) Except as provided in ORS 743.737 and subsection [*(3)*] **(4)** of this section, a rate filing by a carrier for any of the following health benefit plans subject to ORS 743.730 to 743.773 shall be available for public inspection immediately upon submission of the filing to the director:

(a) Health benefit plans for small employers.

(b) Individual health benefit plans.

(3) For an insurer offering a health benefit plan described in subsection (2) of this section, the director shall prescribe by rule a date by which the insurer must submit its rate filing for the upcoming plan year. The date may be no later than eight months prior to the beginning of the open enrollment period for health benefit plans offered for the upcoming plan year through the health insurance exchange under ORS 741.310.

[*(3)*] **(4)** The director may by rule:

(a) Specify all information a carrier must submit as part of a rate filing under this section; and

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

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.

[*(4)*] **(5)** The director, after conducting an actuarial review of the rate filing, may [*approve*] **disapprove** a proposed premium rate for a health benefit plan for small employers or for an individual health benefit plan if, in the director's **reasonable** discretion, the proposed [*rates are*] **rate falls outside of the range of rates that are**:

(a) Actuarially sound;

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

(c) Based upon reasonable administrative expenses.

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

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

(b) Historical and projected administrative costs and medical and hospital expenses.

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

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

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

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

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

(h) Any public comments received under ORS 743.019 pertaining to the standards set forth in subsection [*(4)*] **(5)** of this section and this subsection.

[*(6) With the written consent of the insurer, the director may modify a schedule or table of premium rates filed in accordance with subsection (1) of this section.*]

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

SECTION 2. ORS 743.019 is amended to read:

743.019. (1) When an insurer files a schedule or table of premium rates for individual or small employer health insurance under ORS 743.018, the Director of the Department of Consumer and Business Services shall open a 30-day public comment period on the rate filing that begins on the date the insurer files the schedule or table of premium rates. The director shall post all **of the public** comments to the website of the Department of Consumer and Business Services without delay.

[*(2) The director shall give written notice to an insurer approving or disapproving a rate filing or, with the written consent of the insurer, modifying a rate filing submitted under ORS 743.018 no later than 10 business days after the close of the public comment period. The notice shall comply with the requirements of ORS 183.415.*]

(2) The department shall make a preliminary decision to approve or disapprove a rate filing no later than 10 days after the close of the public comment period. If the department's preliminary decision is to disapprove the rate filing, the department shall notify the insurer in writing of its preliminary decision. The notice must include:

(a) The reasons for the disapproval;

(b) Any actuarial or other analyses, calculations or evaluations supporting the department's decision; and

(c) Information about the range of rates that the department would approve as meeting the requirements of ORS 743.018 (5).

(3) Upon receipt of the notice, the insurer shall be given an opportunity to meet with the director and submit additional information in response to the department's decision.

(4) With the written consent of the insurer, the department may approve a modified schedule or table of premium rates. An insurer's consent to the modified rates does not preclude the insurer from requesting a contested case hearing under subsection (6) of this section to challenge the disapproval of the insurer's initial rate filing.

(5) After considering any additional information provided to the department by the insurer under subsection (3) of this section, the director shall give written notice to an insurer approving or disapproving a rate filing no later than 30 days after the close of the public comment period. The notice must comply with ORS 183.415.

(6) An insurer has a right to a contested case hearing in accordance with ORS chapter 183 to challenge the director's decision to disapprove a rate filing. If the hearing is requested within 10 days of the notice of disapproval, the final order shall be entered no later than 90 days prior to the beginning of the open enrollment period for the health benefit plan for which the rates were filed.

(7) If an insurer has consented to a modification of a schedule or table of premium rates pending a contested case hearing and the final order in the contested case reverses the director's denial of the initial rate filing, the schedule or table of premium rates under the initial rate filing may go into effect on or after the date of the final order.

SECTION 3. ORS 742.003 is amended to read:

742.003. (1) Except where otherwise provided by law, no basic policy form, or application form where written application is required and is to be made a part of the policy, or rider, indorsement or renewal certificate form shall be delivered or issued for delivery in this state until the form has been filed with and approved by the Director of the Department of Consumer and Business Services. This section does not apply to:

(a) Forms of unique character which are designed for and used with respect to insurance upon a particular risk or subject;

(b) Forms issued at the request of a particular life or health insurance policy owner or certificate holder and which relate to the manner of distribution of benefits or to the reservation of rights and benefits thereunder;

(c) Forms of group life or health insurance policies, or both, that have been agreed upon as a result of negotiations between the policyholder and the insurer; or

(d) Forms complying with specific requirements regarding delivery or issuance for delivery in this state established by the director by rule.

(2) **Except as provided in ORS 743.019,** the director shall within 30 days after the filing of any such form approve or disapprove the form. The director shall give written notice of such action to the insurer proposing to deliver such form and when a form is disapproved the notice shall show wherein such form does not comply with the law.

(3) The 30-day period referred to in subsection (2) of this section may be extended by the director for an additional period not to exceed 30 days if the director gives written notice within the first 30-day period to the insurer proposing to deliver the form that the director needs such addi-

tional time for the consideration of such form.

(4) The director may at any time request an insurer to furnish the director a copy of any form exempted under subsection (1) of this section.
