Senate Bill 119

Sponsored by Senator SHIELDS, Representative GREENLICK (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 insurer offering health benefit plans to provide annual notice to policyholders of specified information about Department of Consumer and Business Services' rate review process. Requires insurers to provide opportunity for enrollees to subscribe to electronic mailing list for rate filings.

Requires department and Oregon Health Authority to jointly develop standards and metrics for health insurers' cost containment strategies and incorporate standards into premium rate review process. Requires department and authority to establish process for jointly expanding or refining cost containment strategies that may be considered in reviewing rate filings. Applies to rate filings for coverage beginning on or after January 1, 2017.

Requires department to establish by rule, and using public process, methodology for projecting medical cost trends for use by insurers in calculating proposed rates. Requires department to specify exceptions to use of methodology. Applies to rate filings for coverage beginning on or after January 1, 2017.

Requires Director of Department of Consumer and Business Services to post to website of department detailed explanation for approval of any health insurance rate filing that increases rates. Makes consideration of certain criteria related to approval of such rate increases mandatory.

Declares emergency, effective October 1, 2015.

A BILL FOR AN ACT

Relating to health insurance rate review; creating new provisions; amending ORS 742.003, 743.018 and 743.019; and declaring an emergency.

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

SECTION 1. Sections 2 and 3 of this 2015 Act are added to and made a part of the Insurance Code.

SECTION 2. (1) The Department of Consumer and Business Services and the Oregon Health Authority shall jointly develop standards and metrics for evaluating health insurers' cost containment strategies and shall incorporate the standards into the premium rate approval process under ORS 743.018.

(2) In evaluating whether to approve a premium rate, the department shall conduct a comprehensive review of the insurer's cost containment and quality improvement strategies. The comprehensive review shall include, but is not limited to:

(a) An evaluation of the insurer's strategies in key areas in which evidence-based and experience-tested strategies are available; and

(b) A determination of whether the insurer's strategies are feasible, comprehensive and sufficient to contain costs and improve quality.

(3) The department and the authority shall also establish a process for jointly expanding or refining the cost containment strategies that may be considered in reviewing a rate filing.

(4) In determining whether a proposed premium rate meets the criteria of ORS 743.018, the department shall consider:

(a) An insurer's specific, quantifiable goals for reducing upward trends in medical costs

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.

as well as the insurer's detailed rationale for choosing those particular goals;

(b) Whether an insurer met or exceeded the goals for reducing upward trends in medical costs set forth in its previous rate filing for the same category of health plan; and

(c) If the insurer's upward trends in medical costs failed to meet the goals, the insurer's assessment of the causes of failure and the insurer's plans to improve cost containment performance in the future.

(5) The department and the authority shall regularly report to the appropriate interim committees of the Legislative Assembly on their progress toward implementation of this section and on any recommended legislative changes to improve the review of cost containment strategies in the rate review process.

SECTION 3. (1) The Department of Consumer and Business Services shall establish by rule a methodology for projecting anticipated changes in medical costs. Insurers must apply the methodology in calculating proposed premium rates. The methodology shall include:

(a) The adoption of a rate of inflation or deflation in medical costs projected from the current year to the year to which a rate filing applies; and

(b) Exceptions to the rate of inflation or deflation adopted under paragraph (a) of this subsection based on special factors including, but not limited to:

(A) Unique characteristics of the policyholders or certificate holders of a health benefit plan; or

(B) Utilization controls used in a health benefit plan that would cause the rate of change in medical costs to vary from a state average.

(2) An insurer is required to use the rate of inflation or deflation established under subsection (1)(a) of this section unless the insurer provides the department with compelling evidence that the insurer qualifies for an exception adopted by the department under subsection (1)(b) of this section.

(3) The department shall adopt the rate and the methodology described in subsection (1) of this section using a public process. The department shall convene a group that includes actuaries and other relevant experts to advise the department in the adoption of the rate and methodology. All proceedings conducted and documents produced or considered under this section are subject to open meetings and public records laws under ORS 192.410 to 192.505 and 192.610 to 192.690.

SECTION 4. ORS 743.019 is amended to read:

743.019. (1) When an insurer files **for approval by the Director of the Department of Consumer and Business Services** a schedule or table of premium rates for **an** individual or small employer health [*insurance under ORS 743.018*] **benefit plan as defined in ORS 743.730**, 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 comments to the website of the Department of Consumer and Business Services without delay.

(2) Each calendar year, on a date prescribed by the department that is designed to coincide with the rate filing deadline for qualified health plans offered through the health insurance exchange, an insurer that offers a health benefit plan to an individual or to a small employer shall send a written notice to the policyholders of the individual or small employer health benefit plans that contains:

(a) Information about the rate review process in this state and how to provide public

comments and participate in public hearings on rate filings;

(b) The address of the department's rate review website;

(c) Instructions for how to sign up to receive rate filing notifications through the department's electronic mailing list; and

(d) Instructions for how to receive rate filing notifications in formats other than the department's electronic mailing list.

(3) All enrollment forms and renewal notices provided to enrollees in individual or small employer health benefit plans must include, in a prominent manner, information about:

(a) The rate review process in this state;

(b) The rate review website maintained by the department;

(c) Enrollees' right to participate in the rate review process; and

(d) How to elect to receive rate filing notifications through the department's electronic mailing list.

(4) Insurers offering individual or small employer health benefit plans shall provide, in a prominent location on the enrollment and renewal forms, an opportunity for enrollees to elect to receive rate filing notifications through the department's electronic mailing list system. Insurers shall subscribe enrollees who elect to receive rate filing notifications, using the department's electronic notification system.

(5) All explanations of benefits and all printed marketing materials, newsletters and communications with insurance brokers from an insurer offering individual or small employer health benefit plans must include the information described in subsection (3)(a), (b) and (c) of this section.

[*(2)*] **(6)** 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.

(7) If the director approves a rate filing that increases rates above the rates previously approved by the director for an individual or small employer health benefit plan, the director shall make available on the department's website a detailed explanation of how the increased rates:

(a) Meet standards described in ORS 743.018 (4) and (5); and

(b) Are not subject to disapproval under ORS 742.005.

SECTION 5. 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.

(2) Except as provided in ORS 743.737 and subsection (3) 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) 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.

(4) The director, after conducting an actuarial review of the rate filing, may approve a proposed premium rate for a health benefit plan for small employers or for an individual health benefit plan if, in the director's discretion, the proposed rates are:

(a) Actuarially sound;

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

(c) Based upon reasonable administrative expenses.

(5) 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*] **shall** 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 **using the methodology for projecting anticipated changes in medical costs adopted by the Department of Consumer and Business Services under section 3 of this 2015 Act**.

(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) 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 6. 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 for rate filings under 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*] **the approval or disapproval** to the insurer proposing to deliver [*such*] **the** form and when a form is disapproved the notice shall [*show wherein such form*] **explain why the 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*] additional time for the consideration of [*such*] **the** 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.

SECTION 7. Sections 2 and 3 of this 2015 Act apply to premium rate filings for individual and small group health benefit plan coverage beginning on or after January 1, 2017.

SECTION 8. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect October 1, 2015.