

March 21, 2019

Representative Andrea Salinas, Chair  
House Committee on Health Care  
Oregon State Legislature

Re: HB 3074

From the Desk of  
Representative  
Cedric Hayden



Dear Chair Salinas and Committee Members:

The Oregon State Public Interest Research Group (“OSPIRG”) is a consumer advocacy organization with over 30,000 members and supporters throughout the state. Today, I am writing to offer testimony regarding 2019 HB 3074, which proposes to streamline the health insurance rate review process.

Since 2011, OSPIRG has served as an independent voice for consumers in Oregon’s insurance rate review process. With the support of a grant from the state, we were able to conduct robust actuarial review of annual rate filings and shine a light on unjustified and excessive rate increases. This work has helped prevent rate increases that have collectively saved Oregonians over \$290 million on insurance premiums. HB 3074 proposes to modify the rate review process, making it simpler and potentially more responsive to changes in the marketplace.

The last two years have seen a number of sudden and disruptive federal decisions that substantially altered marketplace conditions and expectations, some of which occurred in the midst of rate setting for upcoming plan years.

For example, in response to the cut-off of Cost Sharing Reduction payments in 2017, many states, including Oregon, elected to permit health benefit carriers to engage in the practice of “silver loading” in order to maintain a stable individual insurance market in the 2018 plan year forward.<sup>1</sup> Now, the Centers for Medicare and Medicaid services are considering regulations that would effectively ban the practice of silver loading.<sup>2</sup> If this policy were to be approved in the midst of rate-setting for a subsequent plan year, it could once again force an on-the-fly rethink of insurance rate regulation in Oregon.

<sup>1</sup> “Silver loading” refers to a strategy where insurers subsidize the cost of providing reduced cost-sharing to income-eligible consumers by only increasing the premiums of Silver-tier plans, but not plans in the other metal tiers. Since most marketplace consumers receive advance premium tax credits (APTCs) in an amount tied to the average premium for silver tier plans, the cost-sharing reduction subsidies are effectively replaced by increased APTCs. However, this also renders silver-tier coverage effectively unaffordable for consumers with incomes immediately above the 400% FPL cut-off for APTC assistance.

<sup>2</sup> Shelby Livingston, “[CMS wants to cut ACA exchange fees, end silver-loading](#),” January 17, 2019.



Given the continued potential for disruption, it makes sense to make the rate review process more nimble than its current form.

However, we would caution that the HB 3074, as introduced, goes much too far in cutting out public opportunities for input on the rate review process. We recognize that the Department of Consumer and Business Services (“DCBS”) has proposed amendments to the bill text that preserve much more of the current rate review procedure, while still reducing redundancies and giving DCBS greater flexibility to respond to market disruption. It is critical that this committee adopt these amendments if it chooses to move this bill forward, in order to preserve a uniquely transparent process that has provided massive savings to Oregon consumers over the last decade.

OSPIRG is not taking a position on whether or not you should advance this proposal. However, whichever course you choose, we encourage you to proceed in a manner that preserves the transparency and opportunity for public input that has defined rate review in Oregon.

Thank you for your time and consideration.

Respectfully Submitted,



Mark O. Griffith  
Health Care Advocate  
OSPIRG