

House Bill 4134

Sponsored by Representative NOBLE, Senator LINTHICUM; Representatives BARRETO, BONHAM, BREESE-IVERSON, GOMBERG, LEWIS, LIVELY, POST, RESCHKE, SMITH DB, SMITH G, SPRENGER, WALLAN, WITT, Senators FINDLEY, KNOPP, MONNES ANDERSON, THOMSEN (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**.

Prohibits pharmacy benefit manager from including in contract with network pharmacy term barring price increase to customer to offset estimated amount of corporate activity tax paid by pharmacy and attributable to sale of prescription drug.

Applies to contracts entered into on or after January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxes paid by pharmacies; creating new provisions; amending ORS 735.536; and pre-
3 scribing an effective date.

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

5 **SECTION 1.** ORS 735.536 is amended to read:

6 735.536. (1) As used in this section, "out-of-pocket cost" means the amount paid by an enrollee
7 under the enrollee's coverage, including deductibles, copayments, coinsurance or other expenses as
8 prescribed by the Department of Consumer and Business Services by rule.

9 (2) A pharmacy benefit manager registered under ORS 735.532:

10 (a) May not require a prescription to be filled or refilled by a mail order pharmacy as a condi-
11 tion for reimbursing the cost of the drug.

12 (b) Except as provided in paragraph (c) of this subsection, may require a prescription for a
13 specialty drug to be filled or refilled at a specialty pharmacy as a condition for the reimbursement
14 of the cost a drug.

15 (c) Shall reimburse the cost of a specialty drug that is filled or refilled at a network pharmacy
16 that is a long term care pharmacy.

17 (d)(A) Shall allow a network pharmacy to mail, ship or deliver prescription drugs to its patients
18 as an ancillary service.

19 (B) Is not required to reimburse a delivery fee charged by a pharmacy for a delivery described
20 in subparagraph (A) of this paragraph unless the fee is specified in the contract between the phar-
21 macy benefit manager and the pharmacy.

22 (e) May not require a patient signature as proof of delivery of a mailed or shipped prescription
23 drug if the network pharmacy:

24 (A)(i) Maintains a mailing or shipping log signed by a representative of the pharmacy; or

25 (ii) Maintains each notification of delivery provided by the United States Postal Service or a
26 package delivery service; and

27 (B) Is responsible for the cost of mailing, shipping or delivering a replacement for a drug that
28 was mailed or shipped but not received by the enrollee.

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 (f) May not penalize a network pharmacy for or otherwise directly or indirectly prevent a net-
2 work pharmacy from informing an enrollee of the difference between the out-of-pocket cost to the
3 enrollee to purchase a prescription drug using the enrollee's pharmacy benefit and the pharmacy's
4 usual and customary charge for the prescription drug.

5 (g) **May not include as a term of a contract with a network pharmacy a prohibition**
6 **against the pharmacy increasing the price to customers of a prescription drug to offset the**
7 **estimated portion of the tax imposed under ORS 317A.116 attributable to the sale of the**
8 **prescription drug and payable by the pharmacy.**

9 (3) The Department of Consumer and Business Services may adopt rules to carry out the pro-
10 visions of this section.

11 **SECTION 2. The amendments to ORS 735.536 by section 1 of this 2020 Act apply to con-**
12 **tracts entered into on or after January 1, 2021.**

13 **SECTION 3. This 2020 Act takes effect on the 91st day after the date on which the 2020**
14 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

15