

# House Bill 2491

Sponsored by Representative HOLVEY (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 short term health insurance policies to cover essential health benefits. Prohibits short term health insurance policies with terms of six months or longer from denying coverage based on preexisting condition.

## A BILL FOR AN ACT

1  
2 Relating to insurance; creating new provisions; and amending ORS 743B.011, 743B.105 and 743B.125.

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

4 **SECTION 1.** ORS 743B.011 is amended to read:

5 743B.011. (1) Except as provided in subsection (2) of this section, every health benefit plan shall  
6 be subject to the provisions of ORS 743B.010 to 743B.013, if the plan provides health benefits cov-  
7 ering one or more employees of a small employer and if any one of the following conditions is met:

8 (a) Any portion of the premium or benefits is paid by a small employer or any employee is re-  
9 imbursement, whether through wage adjustments or otherwise, by a small employer for any portion of  
10 the health benefit plan premium; or

11 (b) The health benefit plan is treated by the employer or any of the employees as part of a plan  
12 or program for the purposes of section 106, section 125 or section 162 of the Internal Revenue Code  
13 of 1986, as amended.

14 (2) Subsection (1) of this section does not apply to:

15 (a) An individual health benefit plan for which a portion of the premium is reimbursed through  
16 a qualified small employer health reimbursement arrangement as defined in section 9831 of the  
17 Internal Revenue Code; or

18 (b) An individual health benefit plan that is considered to be integrated with a health re-  
19 imbursement arrangement or other account-based group health plan authorized by federal law.

20 (3) Except as otherwise provided by ORS 743B.010 to 743B.013 or other law, no health benefit  
21 plan offered to a small employer shall:

22 (a) Inhibit a carrier from contracting with providers or groups of providers with respect to  
23 health care services or benefits; or

24 (b) Impose any restriction on the ability of a carrier to negotiate with providers regarding the  
25 level or method of reimbursing care or services provided under health benefit plans.

26 (4)(a) A carrier may provide different health benefit plans to different categories of employees  
27 of a small employer when the employer has chosen to establish different categories of employees in  
28 a manner that does not relate to the actual or expected health status of such employees or their  
29 dependents. The categories must be based on bona fide employment-based classifications that are  
30 consistent with the employer's usual business practice.

31 (b) Except as provided in ORS 743B.012 (7), a carrier that offers coverage to a small employer

**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 shall offer coverage to all eligible employees of the small employer.

2 (c) If a small employer elects to offer coverage to dependents of eligible employees, the carrier  
3 shall offer coverage to all dependents of eligible employees.

4 (5) An insurer may not deny, delay or terminate participation of an individual in a group health  
5 benefit plan **or a short term health insurance policy with a term of six months or longer** or  
6 exclude coverage otherwise provided to an individual under a group health benefit plan **or a short**  
7 **term health insurance policy with a term of six months or longer** based on a preexisting con-  
8 dition of the individual.

9 **SECTION 2.** ORS 743B.105 is amended to read:

10 743B.105. The following requirements apply to all group health benefit plans other than small  
11 employer health benefit plans covering two or more certificate holders:

12 (1) A carrier offering a group health benefit plan may not decline to offer coverage to any eli-  
13 gible prospective enrollee and may not impose different terms or conditions on the coverage, pre-  
14 miums or contributions of any enrollee in the group that are based on the actual or expected health  
15 status of the enrollee.

16 (2) A group health benefit plan may not apply a preexisting condition exclusion to any enrollee  
17 but may impose:

18 (a) An affiliation period that does not exceed two months for an enrollee or three months for a  
19 late enrollee; or

20 (b) A group eligibility waiting period for late enrollees that does not exceed 90 days.

21 (3) Each group health benefit plan shall contain a special enrollment period during which eligi-  
22 ble employees and dependents may enroll for coverage, as provided by federal law and rules adopted  
23 by the Department of Consumer and Business Services.

24 (4)(a) A carrier shall issue to a group any of the carrier's group health benefit plans offered by  
25 the carrier for which the group is eligible, if the group applies for the plan, agrees to make the re-  
26 quired premium payments and agrees to satisfy the other requirements of the plan.

27 (b) The department may waive the requirements of this subsection if the department finds that  
28 issuing a plan to a group or groups would endanger the carrier's ability to fulfill the carrier's con-  
29 tractual obligations or result in financial impairment of the carrier.

30 (5) Each group health benefit plan shall be renewable with respect to all eligible enrollees at  
31 the option of the policyholder unless:

32 (a) The policyholder fails to pay the required premiums.

33 (b) The policyholder or, with respect to coverage of individual enrollees, an enrollee or a rep-  
34 resentative of an enrollee engages in fraud or makes an intentional misrepresentation of a material  
35 fact as prohibited by the terms of the plan.

36 (c) The number of enrollees covered under the plan is less than the number or percentage of  
37 enrollees required by participation requirements under the plan.

38 (d) The policyholder fails to comply with the contribution requirements under the plan.

39 (e) The carrier discontinues both offering and renewing, all of the carrier's group health benefit  
40 plans in this state or in a specified service area within this state. In order to discontinue plans un-  
41 der this paragraph, the carrier:

42 (A) Must give notice of the decision to the department and to all policyholders covered by the  
43 plans;

44 (B) May not cancel coverage under the plans for 180 days after the date of the notice required  
45 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or in a

1 specified service area, except that:

2 (i) The carrier shall cancel coverage in accordance with subparagraph (C) of this paragraph if  
 3 the cancellation is for a specified service area in the circumstances described in subparagraph (C)  
 4 of this paragraph; and

5 (ii) The Director of the Department of Consumer and Business Services may specify a cancella-  
 6 tion date other than the cancellation date specified in this subparagraph if the carrier is subject to  
 7 a delinquency proceeding, as defined in ORS 734.014; and

8 (C) May not cancel coverage under the plans for 90 days after the date of the notice required  
 9 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area  
 10 because of an inability to reach an agreement with the health care providers or organization of  
 11 health care providers to provide services under the plans within the service area.

12 (f) The carrier discontinues both offering and renewing a group health benefit plan in a specified  
 13 service area within this state because of an inability to reach an agreement with the health care  
 14 providers or organization of health care providers to provide services under the plan within the  
 15 service area. In order to discontinue a plan under this paragraph, the carrier:

16 (A) Must give notice of the decision to the department and to all policyholders covered by the  
 17 plan;

18 (B) May not cancel coverage under the plan for 90 days after the date of the notice required  
 19 under subparagraph (A) of this paragraph; and

20 (C) Must offer in writing to each policyholder covered by the plan, all other group health benefit  
 21 plans that the carrier offers in the specified service area. The carrier shall offer the plans at least  
 22 90 days prior to discontinuation.

23 (g) The carrier discontinues both offering and renewing a group health benefit plan, other than  
 24 a grandfathered health plan, for all groups in this state or in a specified service area within this  
 25 state, other than a plan discontinued under paragraph (f) of this subsection.

26 (h) The carrier discontinues both offering and renewing a grandfathered health plan for all  
 27 groups in this state or in a specified service area within this state, other than a plan discontinued  
 28 under paragraph (f) of this subsection.

29 (i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-  
 30 section, the carrier must:

31 (A) Offer in writing to each policyholder covered by the plan, one or more health benefit plans  
 32 that the carrier offers to groups in the specified service area.

33 (B) Offer the plans at least 90 days prior to discontinuation.

34 (C) Act uniformly without regard to the claims experience of the affected policyholders or the  
 35 health status of any current or prospective enrollee.

36 (j) The director orders the carrier to discontinue coverage in accordance with procedures spec-  
 37 ified or approved by the director upon finding that the continuation of the coverage would:

38 (A) Not be in the best interests of the enrollees; or

39 (B) Impair the carrier's ability to meet contractual obligations.

40 (k) In the case of a group health benefit plan that delivers covered services through a specified  
 41 network of health care providers, there is no longer any enrollee who lives, resides or works in the  
 42 service area of the provider network.

43 (L) In the case of a health benefit plan that is offered in the group market only to one or more  
 44 bona fide associations, the membership of an employer in the association ceases and the termination  
 45 of coverage is not related to the health status of any enrollee.

1 (6) A carrier may modify a group health benefit plan at the time of coverage renewal. The  
 2 modification is not a discontinuation of the plan under subsection (5)(e), (g) and (h) of this section.

3 (7) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier may  
 4 not rescind the coverage of an enrollee under a group health benefit plan unless:

5 (a) The enrollee:

6 (A) Performs an act, practice or omission that constitutes fraud; or

7 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
 8 plan;

9 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-  
 10 scribed by the department, to the enrollee; and

11 (c) The carrier provides notice of the rescission to the department in the form, manner and time  
 12 frame prescribed by the department by rule.

13 (8) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier may  
 14 not rescind a group health benefit plan unless:

15 (a) The plan sponsor or a representative of the plan sponsor:

16 (A) Performs an act, practice or omission that constitutes fraud; or

17 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
 18 plan;

19 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-  
 20 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-  
 21 age; and

22 (c) The carrier provides notice of the rescission to the department in the form, manner and time  
 23 frame prescribed by the department by rule.

24 **(9) A group health benefit plan and a short term health insurance policy shall provide**  
 25 **coverage of essential health benefits.**

26 [(9)] **(10) A group health benefit plan and a short term health insurance policy** may not im-  
 27 pose annual or lifetime limits on the dollar amount of essential health benefits.

28 **SECTION 3.** ORS 743B.125 is amended to read:

29 743B.125. (1) With respect to coverage under an individual health benefit plan **or a short term**  
 30 **health insurance policy with a term of six months or longer**, other than a grandfathered health  
 31 plan, a carrier may not impose a preexisting condition exclusion or an individual coverage waiting  
 32 period.

33 (2) With respect to individual coverage under a grandfathered health plan, a carrier:

34 (a) May impose an exclusion period for specified covered services applicable to all individuals  
 35 enrolling for the first time in the individual health benefit plan.

36 (b) May not impose a preexisting condition exclusion unless the exclusion complies with the  
 37 following requirements:

38 (A) The exclusion applies only to a condition for which medical advice, diagnosis, care or  
 39 treatment was recommended or received during the six-month period immediately preceding the  
 40 individual's effective date of coverage.

41 (B) The exclusion expires no later than six months after the individual's effective date of cov-  
 42 erage.

43 (c) May not impose a waiting period.

44 (3) An individual health benefit plan **and any short term health insurance policy** other than  
 45 a grandfathered health plan must cover, at a minimum, all essential health benefits.

1 (4)(a) A carrier shall issue any individual health benefit plan offered by the carrier, other than  
 2 a grandfathered health plan, to any individual who applies for the health benefit plan, if:

- 3 (A) The individual resides in the geographic area where the plan is offered;
- 4 (B) The individual agrees to make the required premium payments; and
- 5 (C) Issuance of the health benefit plan is not otherwise prohibited by law.

6 (b) The Department of Consumer and Business Services may allow a carrier to cap the number  
 7 of individuals enrolled in an individual health benefit plan offered by the carrier if the department  
 8 finds that issuing the health benefit plan to more individuals than are currently enrolled in the plan  
 9 would have a material adverse effect upon the carrier's ability to fulfill the carrier's contractual  
 10 obligations or result in the financial impairment of the carrier.

11 (c) Except as otherwise provided in this section and ORS 743.022, a carrier offering an individual  
 12 health benefit plan may not impose different terms or conditions on the coverage provided or the  
 13 premium charged based on the actual or expected health status of an enrollee or prospective  
 14 enrollee.

15 (5) A carrier shall renew an individual health benefit plan, including a health benefit plan issued  
 16 through a bona fide association, unless:

- 17 (a) The policyholder fails to pay the required premiums.
- 18 (b) The policyholder or a representative of the policyholder engages in fraud or makes an in-  
 19 tentional misrepresentation of a material fact as prohibited by the terms of the policy.

20 (c) The carrier discontinues both offering and renewing all of the carrier's individual health  
 21 benefit plans in this state or in a specified service area within this state. In order to discontinue the  
 22 plans under this paragraph, the carrier:

23 (A) Shall give notice of the decision to the Department of Consumer and Business Services and  
 24 to all policyholders covered by the plans;

25 (B) May not cancel coverage under the plans for 180 days after the date of the notice required  
 26 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or in a  
 27 specified service area, except that:

28 (i) The carrier shall cancel coverage in accordance with subparagraph (C) of this paragraph if  
 29 the cancellation is for a specified service area in the circumstances described in subparagraph (C)  
 30 of this paragraph; and

31 (ii) The Director of the Department of Consumer and Business Services may specify a cancella-  
 32 tion date other than the cancellation date specified in this subparagraph if the carrier is subject to  
 33 a delinquency proceeding, as defined in ORS 734.014; and

34 (C) May not cancel coverage under the plans for 90 days after the date of the notice required  
 35 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area  
 36 because of an inability to reach an agreement with the health care providers or organization of  
 37 health care providers to provide services under the plans within the service area.

38 (d) The carrier discontinues both offering and renewing an individual health benefit plan in a  
 39 specified service area within this state because of an inability to reach an agreement with the health  
 40 care providers or organization of health care providers to provide services under the plan within the  
 41 service area. In order to discontinue a plan under this paragraph, the carrier:

42 (A) Shall give notice of the decision to the department and to all policyholders covered by the  
 43 plan;

44 (B) May not cancel coverage under the plan for 90 days after the date of the notice required  
 45 under subparagraph (A) of this paragraph; and

1 (C) Shall offer in writing to each policyholder covered by the plan, all other individual health  
 2 benefit plans that the carrier offers in the specified service area. The carrier shall offer the plans  
 3 at least 90 days prior to discontinuation.

4 (e) The carrier discontinues both offering and renewing an individual health benefit plan, other  
 5 than a grandfathered health plan, for all individuals in this state or in a specified service area  
 6 within this state, other than a plan discontinued under paragraph (d) of this subsection.

7 (f) The carrier discontinues both offering and renewing a grandfathered health plan for all in-  
 8 dividuals in this state or in a specified service area within this state, other than a plan discontinued  
 9 under paragraph (d) of this subsection.

10 (g) With respect to plans that are being discontinued under paragraph (e) or (f) of this sub-  
 11 section, the carrier shall:

12 (A) Offer in writing to each policyholder covered by the plan, all health benefit plans that the  
 13 carrier offers to individuals in the specified service area.

14 (B) Offer the plans at least 90 days prior to discontinuation.

15 (C) Act uniformly without regard to the claims experience of the affected policyholders or the  
 16 health status of any current or prospective enrollee.

17 (h) The Director of the Department of Consumer and Business Services orders the carrier to  
 18 discontinue coverage in accordance with procedures specified or approved by the director upon  
 19 finding that the continuation of the coverage would:

20 (A) Not be in the best interests of the enrollee; or

21 (B) Impair the carrier's ability to meet the carrier's contractual obligations.

22 (i) In the case of an individual health benefit plan that delivers covered services through a  
 23 specified network of health care providers, the enrollee no longer lives, resides or works in the  
 24 service area of the provider network and the termination of coverage is not related to the health  
 25 status of any enrollee.

26 (j) In the case of a health benefit plan that is offered in the individual market only through one  
 27 or more bona fide associations, the membership of an individual in the association ceases and the  
 28 termination of coverage is not related to the health status of any enrollee.

29 (6) A carrier may modify an individual health benefit plan at the time of coverage renewal. The  
 30 modification is not a discontinuation of the plan under subsection (5)(c), (e) and (f) of this section.

31 (7) Notwithstanding any other provision of this section, and subject to the provisions of ORS  
 32 743B.310 (2) and (4), a carrier may rescind an individual health benefit plan if the policyholder or  
 33 a representative of the policyholder:

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

35 (b) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
 36 policy.

37 (8) A carrier that continues to offer coverage in the individual market in this state is not re-  
 38 quired to offer coverage in all of the carrier's individual health benefit plans. However, if a carrier  
 39 elects to continue a plan that is closed to new individual policyholders instead of offering alterna-  
 40 tive coverage in the carrier's other individual health benefit plans, the coverage for all existing  
 41 policyholders in the closed plan is renewable in accordance with subsection (5) of this section.

42 (9) An individual health benefit plan **or a short term health insurance policy** may not impose  
 43 annual or lifetime limits on the dollar amount of essential health benefits.

44 (10) A grandfathered health plan may not impose lifetime limits on the dollar amount of essential  
 45 health benefits.

1 (11) This section does not require a carrier to actively market, offer, issue or accept applications  
2 for:

3 (a) A bona fide association health benefit plan from individuals who are not members of the bona  
4 fide association; or

5 (b) A grandfathered health plan from individuals who are not eligible for coverage under the  
6 plan.

7 **SECTION 4. The amendments to ORS 743B.011, 743B.105 and 743B.125 by sections 1 to 3**  
8 **of this 2021 Act apply to short term health insurance policies issued, renewed or extended**  
9 **on or after the effective date of this 2021 Act.**

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