

HOUSE AMENDMENTS TO HOUSE BILL 4134

By COMMITTEE ON HEALTH CARE

February 16

1 On page 1 of the printed bill, line 2, after “ORS” insert “243.144, 243.877, 743A.012 and”.

2 On page 2, delete lines 2 through 7 and insert:

3 “(4)(a) If labor and delivery services are provided to an individual insured under a health benefit
4 plan or a health care service contract at an out-of-network health care facility due solely to the
5 diversion of the individual from an in-network health care facility during a state or federally de-
6 clared public health emergency, the health benefit plan or health care service contract:

7 “(A) Shall reimburse the out-of-network provider in accordance with 42 U.S.C. 300gg-111(c) or
8 in accordance with a method adopted by the Department of Consumer and Business Services by rule;
9 and

10 “(B) May not impose a deductible, out-of-pocket maximum, copayment or coinsurance require-
11 ment that exceeds the deductible, out-of-pocket maximum, copayment or coinsurance applicable to
12 in-network providers of labor and delivery services.

13 “(b) This subsection does not apply to services provided by an in-network provider at an out-
14 of-network health care facility.”.

15 Delete lines 11 through 13 and insert:

16 “**SECTION 2.** ORS 243.144 is amended to read:

17 “243.144. Benefit plans offered by the Public Employees’ Benefit Board that reimburse the cost
18 of medical and other health services and supplies must comply with the requirements for health
19 benefit plan coverage described in:

20 “(1) ORS 743A.058;

21 “(2) ORS 743B.256;

22 “(3) ORS 743B.420;

23 “(4) ORS 743B.423;

24 “(5) ORS 743B.601; *[and]*

25 “(6) ORS 743B.810; **and**

26 “(7) **ORS 743B.287 (4)**.

27 “**SECTION 3.** ORS 243.877 is amended to read:

28 “243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost
29 of medical and other health services and supplies must comply with the requirements for health
30 benefit plan coverage described in:

31 “(1) ORS 743A.058;

32 “(2) ORS 743B.256;

33 “(3) ORS 743B.420;

34 “(4) ORS 743B.423;

35 “(5) ORS 743B.601; *[and]*

1 “(6) ORS 743B.810; and
2 “(7) ORS 743B.287 (4).
3 “SECTION 4. ORS 743A.012 is amended to read:
4 “743A.012. (1) As used in this section:
5 “(a) ‘Behavioral health assessment’ means an evaluation by a behavioral health clinician, in
6 person or using telemedicine, to determine a patient’s need for immediate crisis stabilization.
7 “(b) ‘Behavioral health clinician’ means:
8 “(A) A licensed psychiatrist;
9 “(B) A licensed psychologist;
10 “(C) A licensed nurse practitioner with a specialty in psychiatric mental health;
11 “(D) A licensed clinical social worker;
12 “(E) A licensed professional counselor or licensed marriage and family therapist;
13 “(F) A certified clinical social work associate;
14 “(G) An intern or resident who is working under a board-approved supervisory contract in a
15 clinical mental health field; or
16 “(H) Any other clinician whose authorized scope of practice includes mental health diagnosis
17 and treatment.
18 “(c) ‘Behavioral health crisis’ means a disruption in an individual’s mental or emotional stability
19 or functioning resulting in an urgent need for immediate outpatient treatment in an emergency de-
20 partment or admission to a hospital to prevent a serious deterioration in the individual’s mental or
21 physical health.
22 “(d) ‘Emergency medical condition’ means a medical condition:
23 “(A) That manifests itself by acute symptoms of sufficient severity, including severe pain, that
24 a prudent layperson possessing an average knowledge of health and medicine would reasonably ex-
25 pect that failure to receive immediate medical attention would:
26 “(i) Place the health of a person, or an unborn child in the case of a pregnant woman, in serious
27 jeopardy;
28 “(ii) Result in serious impairment to bodily functions; or
29 “(iii) Result in serious dysfunction of any bodily organ or part;
30 “(B) With respect to a pregnant woman who is having contractions, for which there is inade-
31 quate time to effect a safe transfer to another hospital before delivery or for which a transfer may
32 pose a threat to the health or safety of the woman or the unborn child; or
33 “(C) That is a behavioral health crisis.
34 “(e) ‘Emergency medical screening exam’ means the medical history, examination, ancillary tests
35 and medical determinations required to ascertain the nature and extent of an emergency medical
36 condition.
37 “(f) ‘Emergency medical service provider’ has the meaning given that term in ORS 682.025.
38 “(g) ‘Emergency medical services transport’ means an emergency medical services provider’s
39 evaluation and stabilization of an individual experiencing a medical emergency and the transporta-
40 tion of the individual to the nearest medical facility capable of meeting the needs of the individual.
41 “(h) ‘Emergency services’ means, with respect to an emergency medical condition:
42 “(A) An emergency medical services transport;
43 “(B) An emergency medical screening exam or behavioral health assessment that is within the
44 capability of the emergency department of a hospital, including ancillary services routinely available
45 to the emergency department to evaluate such emergency medical condition; and

1 “(C) Such further medical examination and treatment as are required under 42 U.S.C. 1395dd to
2 stabilize a patient, to the extent the examination and treatment are within the capability of the staff
3 and facilities available at a hospital.

4 “(i) ‘Grandfathered health plan’ has the meaning given that term in ORS 743B.005.

5 “(j) ‘Health benefit plan’ has the meaning given that term in ORS 743B.005.

6 “(k) ‘Prior authorization’ has the meaning given that term in ORS 743B.001.

7 “(L) ‘Stabilize’ means to provide medical treatment as necessary to:

8 “(A) Ensure that, within reasonable medical probability, no material deterioration of an emer-
9 gency medical condition is likely to occur during or to result from the transfer of the patient to or
10 from a facility; and

11 “(B) With respect to a pregnant woman who is in active labor, to perform the delivery, including
12 the delivery of the placenta.

13 “(2) All insurers offering a health benefit plan shall provide coverage without prior authori-
14 zation for:

15 “(a) Emergency services **for all emergency medical conditions; and**

16 “(b) **Emergency medical services transport between medical facilities for a pregnant**
17 **woman presenting with signs of labor.**

18 “(3) A health benefit plan, other than a grandfathered health plan, must provide coverage re-
19 quired by subsection (2) of this section:

20 “(a) For the services of participating providers, without regard to any term or condition of
21 coverage other than:

22 “(A) The coordination of benefits;

23 “(B) An affiliation period or waiting period permitted under part 7 of the Employee Retirement
24 Income Security Act, part A of Title XXVII of the Public Health Service Act or chapter 100 of the
25 Internal Revenue Code;

26 “(C) An exclusion other than an exclusion of emergency services; or

27 “(D) Applicable cost-sharing; and

28 “(b) For the services of a nonparticipating provider:

29 “(A) Without imposing any administrative requirement or limitation on coverage that is more
30 restrictive than requirements or limitations that apply to participating providers;

31 “(B) Without imposing a copayment amount or coinsurance rate that exceeds the amount or rate
32 for participating providers;

33 “(C) Without imposing a deductible, unless the deductible applies generally to nonparticipating
34 providers; and

35 “(D) Subject only to an out-of-pocket maximum that applies to all services from nonparticipating
36 providers.

37 “(4) All insurers offering a health benefit plan shall provide information to enrollees in plain
38 language regarding:

39 “(a) What constitutes an emergency medical condition;

40 “(b) The coverage provided for emergency services **and labor**;

41 “(c) How and where to obtain emergency services; and

42 “(d) The appropriate use of 9-1-1.

43 “(5) An insurer offering a health benefit plan may not discourage appropriate use of 9-1-1 and
44 may not deny coverage for emergency services when 9-1-1 is used.

45 “(6) This section is exempt from ORS 743A.001.

1 **“SECTION 5. (1) As used in this section:**

2 **“(a) ‘In-network provider’ means an individual or facility that contracts with a health**
3 **benefit plan or health care service contractor to provide health care services to an individual**
4 **insured under the health benefit plan or health care service contract.**

5 **“(b) ‘Out-of-network provider’ means an individual or facility that does not contract with**
6 **a health benefit plan or health care service contractor to provide health care services to an**
7 **individual insured under the health benefit plan or health care service contract.**

8 **“(2) An out-of-network provider that is licensed or certified in this state may not bill an**
9 **individual insured under a health benefit plan or a health care service contract for the costs**
10 **of labor or delivery services provided by the out-of-network provider if the services are pro-**
11 **vided by the out-of-network provider due solely to the diversion of the individual from an**
12 **in-network provider during a state or federally declared public health emergency.**

13 **“(3) Subsection (2) of this section does not prohibit any provider from billing an individual**
14 **insured under a health benefit plan or health care service contract for coinsurance,**
15 **copayments or deductibles applicable to labor and delivery services provided by in-network**
16 **providers under the terms of the health benefit plan or health care service contract.**

17 **“SECTION 6. The amendments to ORS 243.144, 243.877, 743A.012 and 743B.287 by sections**
18 **1 to 4 of this 2022 Act apply to policies or certificates issued, renewed or extended on or after**
19 **the effective date of this 2022 Act.”.**

20 In line 14, delete “3” and insert “7”.

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