

**Enrolled**  
**Senate Bill 972**

Sponsored by COMMITTEE ON HEALTH CARE

CHAPTER .....

AN ACT

Relating to the health insurance exchange; creating new provisions; amending ORS 741.105 and 741.300; repealing ORS 741.107; and declaring an emergency.

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

**SECTION 1.** Section 2 of this 2023 Act is added to and made a part of ORS 741.001 to 741.540.

**SECTION 2.** The Oregon Health Authority shall procure and administer an information technology platform or service, separate from the federal platform, to provide electronic access to the health insurance exchange in this state on and after November 1, 2026.

**SECTION 3.** ORS 741.105 is amended to read:

741.105. (1) The Oregon Health Authority shall establish, by rule, an administrative charge. The authority shall impose and collect the charge from all insurers participating in the health insurance exchange or offering a health plan certified by the authority and state programs participating in the health insurance exchange. The Health Insurance Exchange Advisory Committee shall advise the authority in establishing the administrative charge. The charge must be in an amount sufficient to cover the costs of grants to navigators, in-person assisters and application counselors certified under ORS 741.002 and to pay the administrative and operational expenses of the authority in carrying out ORS 741.001 to 741.540. The charge shall be paid in a manner and at intervals prescribed by the authority.

(2)(a) Each insurer’s charge shall be based on the number of individuals, excluding individuals enrolled in state programs, who are enrolled in health plans:

- (A) Offered by the insurer through the exchange; and
- (B) Certified by the authority.

(b) The charge to each state program shall be based on the number of individuals enrolled in state programs offered through the exchange.

(3) The charge imposed under this section may not exceed:

(a) Five percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is at or below 175,000;

(b) Four percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is above 175,000 and at or below 300,000; and

(c) Three percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is above 300,000.

(4)[(a)] If charges collected under subsection (1) of this section exceed the amounts needed for the administrative and operational expenses of the authority in administering the health insurance

exchange, the excess moneys collected may be held and used by the authority to [offset future net losses.]:

(a) **Establish or administer the state information technology platform or service that provides electronic access to the health insurance exchange;**

(b) **Subsidize a state premium assistance program; or**

(c) **Implement other measures to further advance the intent of the Legislative Assembly described in ORS 741.001.**

*[(b) The maximum amount of excess moneys that may be held under this subsection is the total costs and expenses described in subsection (1) of this section anticipated by the authority for a six-month period. Any moneys received that exceed the maximum shall be applied by the authority to reduce the charges imposed by this section.]*

(5) Charges shall be based on annual statements and other reports submitted by insurers and state programs as prescribed by the authority.

(6) In addition to charges imposed under subsection (1) of this section, to the extent permitted by federal law the authority may impose a fee on insurers and state programs participating in the exchange to cover the cost of commissions of insurance producers that are certified by the authority [or by the United States Department of Health and Human Services] to facilitate the participation of individuals and employers in the exchange.

(7)(a) The authority shall establish and amend the charges and fees under this section in accordance with ORS 183.310 to 183.410.

(b) If the authority intends to increase an administrative charge or fee, the notice of intended action required by ORS 183.335 shall be sent, if the Legislative Assembly is not in session, to the interim committees of the Legislative Assembly related to health, to the Joint Interim Committee on Ways and Means and to each member of the Legislative Assembly. The Director of the Oregon Health Authority shall appear at the next meetings of the interim committees of the Legislative Assembly related to health and the next meetings of the Joint Interim Committee on Ways and Means that occur after the notice of intended action is sent and fully explain the basis and rationale for the proposed increase in the administrative charges or fees.

(c) If the Legislative Assembly is in session, the authority shall give the notice of intended action to the committees of the Legislative Assembly related to health and to the Joint Committee on Ways and Means and shall appear before the committees to fully explain the basis and rationale for the proposed increase in administrative charges or fees.

(8) All charges and fees collected under this section shall be deposited in the Health Insurance Exchange Fund.

**SECTION 4.** ORS 741.300 is amended to read:

741.300. As used in ORS 741.001 to 741.540:

(1) “Coordinated care organization” has the meaning given that term in ORS 414.025.

(2) “Essential health benefits” has the meaning given that term in ORS 731.097.

(3) “Health benefit plan” has the meaning given that term in ORS 743B.005.

(4) “Health care service contractor” has the meaning given that term in ORS 750.005.

(5) “Health insurance” has the meaning given that term in ORS 731.162, excluding disability income insurance.

(6) “Health insurance exchange” or “exchange” means [the division of the Oregon Health Authority that operates] an American Health Benefit Exchange as described in 42 U.S.C. 18031, 18032, 18033 and 18041.

(7) “Health plan” means a health benefit plan or dental only benefit plan offered by an insurer.

(8) “Insurer” means an insurer as defined in ORS 731.106 that offers health insurance, a health care service contractor, a prepaid managed care health services organization or a coordinated care organization.

(9) “Insurance producer” has the meaning given that term in ORS 731.104.

(10) “Prepaid managed care health services organization” has the meaning given that term in ORS 414.025.

(11) "State program" means a program providing medical assistance, as defined in ORS 414.025, and any self-insured health benefit plan or health plan offered to employees by the Public Employees' Benefit Board or the Oregon Educators Benefit Board.

(12) "Qualified health plan" means a health benefit plan certified by the authority in accordance with the requirements, standards and criteria adopted by the authority under ORS 741.310.

(13) "Small Business Health Options Program" or "SHOP" means a health insurance exchange for small employers as described in 42 U.S.C. 18031.

**SECTION 5.** Section 2 of this 2023 Act is amended to read:

**Sec. 2.** The Oregon Health Authority shall procure and administer an information technology platform or service, separate from the federal platform, to provide electronic access to the health insurance exchange in this state [on and after November 1, 2026].

**SECTION 6. ORS 741.107 is repealed.**

**SECTION 7.** (1) The amendments to section 2 of this 2023 Act by section 5 of this 2023 Act and the amendments to ORS 741.105 and 741.300 by sections 3 and 4 of this 2023 Act become operative on November 1, 2026.

(2) The Oregon Health Authority shall take all steps prior to the operative date specified in subsection (1) of this section that are necessary to carry out the amendments to section 2 of this 2023 Act by section 5 of this 2023 Act and the amendments to ORS 741.105 and 741.300 by sections 3 and 4 of this 2023 Act on the operative date specified in subsection (1) of this section.

**SECTION 8.** This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate June 20, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House June 23, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State