

HB 3212-6
(LC 2723)
5/21/25 (EKJ/ps)

Requested by Representative NOSSE

**PROPOSED AMENDMENTS TO
HOUSE BILL 3212**

On page 1 of the printed bill, in line 2, after “benefits;” delete the rest of the line and insert “creating new provisions; and amending ORS 735.534.”.

Delete lines 4 through 28 and delete pages 2 through 5 and insert:

“SECTION 1. ORS 735.534, as amended by section 6, chapter 87, Oregon Laws 2024, is amended to read:

“735.534. (1) As used in this section:

“(a) ‘Affiliated pharmacy’ means a pharmacy that is directly or indirectly controlled by, or under common control with, a pharmacy benefit manager.

“(b) ‘Carrier’ has the meaning given that term in ORS 743B.005.

“[(a)(A)] (c)(A) ‘Generally available for purchase’ means a drug is available for purchase in this state by a pharmacy from a national or regional wholesaler at the time a claim for reimbursement is submitted by a network pharmacy.

“(B) A drug is not ‘generally available for purchase’ if the drug:

“(i) May be dispensed only in a hospital or inpatient care facility;

“(ii) Is unavailable due to a shortage of the product or an ingredient;

“(iii) Is available to a pharmacy at a price that is at or below the maximum allowable cost only if purchased in substantial quantities that are inconsistent with the business needs of a pharmacy;

1 “(iv) Is sold at a discount due to a short expiration date on the drug; or

2 “(v) Is the subject of an active or pending recall.

3 “[*(b)*] **(d)** ‘List’ means the list of drugs for which maximum allowable
4 costs have been established.

5 “[*(c)*] **(e)** ‘Maximum allowable cost’ means the maximum amount that a
6 pharmacy benefit manager will reimburse a pharmacy for the cost of a drug.

7 “[*(d)*] **(f)** ‘Multiple source drug’ means a therapeutically equivalent drug
8 that is available from at least two manufacturers.

9 “[*(e)*] **(g)** ‘Therapeutically equivalent’ has the meaning given that term in
10 ORS 689.515.

11 “(2) A pharmacy benefit manager licensed under ORS 735.532:

12 “(a) May not place a drug on a list unless there are at least two multiple
13 source drugs, or at least one generic drug generally available for purchase.

14 “(b) Shall ensure that all drugs on a list are generally available for pur-
15 chase.

16 “(c) Shall ensure that no drug on a list is obsolete.

17 “(d) Shall make available to each network pharmacy at the beginning of
18 the term of a contract, and upon renewal of a contract, the specific author-
19 itative industry sources, other than proprietary sources, the pharmacy bene-
20 fit manager uses to determine the maximum allowable cost set by the
21 pharmacy benefit manager.

22 “(e) Shall make a list available to a network pharmacy upon request in
23 a format that:

24 “(A) Is electronic;

25 “(B) Is computer accessible and searchable;

26 “(C) Identifies all drugs for which maximum allowable costs have been
27 established; and

28 “(D) For each drug specifies:

29 “(i) The national drug code; and

30 “(ii) The maximum allowable cost.

1 “(f) Shall update each list maintained by the pharmacy benefit manager
2 every seven business days and make the updated lists, including all changes
3 in the price of drugs, available to network pharmacies in the format de-
4 scribed in paragraph (e) of this subsection.

5 “(g) Shall ensure that dispensing fees are not included in the calculation
6 of maximum allowable cost.

7 “(h) May not reimburse a 340B pharmacy differently than any other net-
8 work pharmacy based on its status as a 340B pharmacy.

9 “(i) Shall comply with the provisions of ORS 743A.062.

10 “(j) May not retroactively deny or reduce payment on a claim for re-
11 imbursement of the cost of services after the claim has been adjudicated by
12 the pharmacy benefit manager unless the:

13 “(A) Adjudicated claim was submitted fraudulently;

14 “(B) Pharmacy benefit manager’s payment on the adjudicated claim was
15 incorrect because the pharmacy had already been paid for the services;

16 “(C) Services were improperly rendered by the pharmacy in violation of
17 state or federal law; or

18 “(D) Payment was incorrect due to an error that the pharmacy and
19 pharmacy benefit manager agree was a clerical error.

20 “(k) May not impose a fee on a pharmacy after the point of sale.

21 “(L) Shall provide notice to a pharmacy of any claim for reimbursement
22 of the cost of a prescription drug that is denied or reduced. The notice shall
23 identify the specific disaggregated claim that was denied or reduced and a
24 detailed explanation for why the specific claim was denied or reduced.

25 **“(m) May not enter into a contract with a pharmacy or pharmacy**
26 **services administrative organization, as defined in section 2, chapter**
27 **87, Oregon Laws 2024, if the contract:**

28 **“(A) Requires a pharmacy to participate in any other contract, in-**
29 **cluding a contract with more than one carrier;**

30 **“(B) Restricts, prohibits or in any other way interferes with a**

1 pharmacy's or pharmacist's ability to discuss the contract with a
2 carrier or a coordinated care organization, as defined in ORS 414.025,
3 that has entered in to a contract with the same pharmacy benefit
4 manager;

5 “(C) Requires the pharmacy to meet unreasonable burdens, as de-
6 fined by the Department of Consumer and Business Services by rule,
7 including but not limited to requiring accreditation or certification in
8 addition to what is required by the State Board of Pharmacy;

9 “(D) Requires the pharmacy to provide pharmacist services to a
10 patient if the pharmacy will be reimbursed less than the pharmacy's
11 drug acquisition cost and the cost of dispensing the drug;

12 “(E) Does not include specific contract rates and a clear breakdown
13 of the rates associated with every individual carrier, as defined in ORS
14 743B.005, in the contract;

15 “(F) Prohibits the pharmacy or pharmacy services administrative
16 organization from contracting directly with a carrier;

17 “(G) Implements or permits any reduction of payment for pharmacy
18 services provided by a pharmacy benefits manager to a pharmacy;

19 “(H) Prohibits or restricts a pharmacy from, or penalizes a phar-
20 macy for, charging an enrollee an additional fee that is above the
21 copayment or deductible amount; or

22 “(I) Provides that the terms and conditions of the contract or that
23 the duties of the parties under the contract are subject to terms,
24 conditions or other provisions specified in a manual or other document
25 over which only one party has control or has the right or capability
26 to make amendments, with or without notice to the other party, un-
27 less the contract also provides that the parties must negotiate and
28 agree upon all amendments to the manual or document and exchange
29 legally adequate consideration before the amendments become effec-
30 tive or become enforceable provisions of the contract.

1 “(n) May not reimburse a pharmacy in this state that is not an af-
2 filiated pharmacy, or pharmacist in this state that is not part of an
3 affiliated pharmacy, in an amount that is less than the amount the
4 pharmacy benefit manager reimburses an affiliated pharmacy for pro-
5 viding the same services.

6 “(3) Subsection (2)(j) of this section may not be construed to limit phar-
7 macy claim audits under ORS 735.540 to 735.552.

8 “(4) A pharmacy benefit manager must establish a process by which a
9 network pharmacy may appeal its reimbursement for a drug subject to max-
10 imum allowable cost pricing. A network pharmacy may appeal a maximum
11 allowable cost if the reimbursement for the drug is less than the net amount
12 that the network pharmacy paid to the supplier of the drug. The process
13 must allow a network pharmacy a period of no less than 60 days after a
14 claim is reimbursed in which to file the appeal. An appeal requested under
15 this section must be completed within 30 calendar days of the pharmacy
16 making the claim for which appeal has been requested.

17 “(5) A pharmacy benefit manager shall allow a network pharmacy to
18 submit the documentation in support of its appeal on paper or electronically
19 and may not:

20 “(a) Refuse to accept an appeal submitted by a person authorized to act
21 on behalf of the network pharmacy;

22 “(b) Refuse to adjudicate an appeal for the reason that the appeal is
23 submitted along with other claims that are denied; or

24 “(c) Impose requirements or establish procedures that have the effect of
25 unduly obstructing or delaying an appeal.

26 “(6) A pharmacy benefit manager must provide as part of the appeals
27 process established under subsection (4) of this section:

28 “(a) A telephone number at which a network pharmacy may contact the
29 pharmacy benefit manager and speak with an individual who is responsible
30 for processing appeals;

1 “(b) A final response to an appeal of the reimbursement for a drug within
2 seven business days; and

3 “(c) If the appeal is denied, the reason for the denial and the national
4 drug code of a drug that may be purchased by similarly situated pharmacies
5 at a price that is equal to or less than the maximum allowable cost.

6 “(7)(a) If an appeal is upheld under this section, the pharmacy benefit
7 manager shall:

8 “(A) Make an adjustment for the pharmacy that requested the appeal from
9 the date of initial adjudication forward; and

10 “(B) Allow the pharmacy to reverse the claim and resubmit an adjusted
11 claim without any additional charges.

12 “(b) If the request for an adjustment has come from a critical access
13 pharmacy, as defined by the Oregon Health Authority by rule for purposes
14 related to the Oregon Prescription Drug Program, the adjustment approved
15 under paragraph (a) of this subsection shall apply only to critical access
16 pharmacies.

17 “(8) A pharmacy may file a complaint with the Department of Consumer
18 and Business Services to contest a finding of a pharmacy benefit manager in
19 response to an appeal under subsection (4) of this section or a pharmacy
20 benefit manager’s failure to comply with the provisions of this section.

21 “(9) The Department of Consumer and Business Services may adopt rules
22 to carry out the provisions of this section.

23 **“SECTION 2. The Department of Consumer and Business Services**
24 **shall study the maximum allowable cost pricing appeal process de-**
25 **scribed in ORS 735.534 and the current process to accept and respond**
26 **to complaints from pharmacies and other entities related to possible**
27 **violations of ORS 735.530 to 735.552. The department shall submit a**
28 **report in the manner provided by ORS 192.245, and may include rec-**
29 **ommendations for legislation, to the interim committees of the Leg-**
30 **islative Assembly related to health care no later than September 15,**

1 **2026.**

2 **“SECTION 3. Section 2 of this 2025 Act is repealed on January 2,**
3 **2027.**

4 **“SECTION 4. The amendments to ORS 735.534 by section 1 of this**
5 **2025 Act apply to all contracts issued, renewed, extended or amended**
6 **by a pharmacy benefit manager on or after January 1, 2026.”.**

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