

## HOUSE AMENDMENTS TO HOUSE BILL 2564

By COMMITTEE ON BEHAVIORAL HEALTH AND HEALTH CARE

March 21

1 On page 2 of the printed bill, delete lines 23 through 45 and delete pages 3 and 4 and insert:

2 “**SECTION 2.** ORS 743.019 is amended to read:

3 “743.019. (1) When an insurer files a schedule or table of premium rates for individual or small  
4 employer health benefit plans under ORS 743.018, the Department of Consumer and Business Ser-  
5 vices shall open a 30-day public comment period on the rate filing that begins on the date the  
6 insurer files the schedule or table of premium rates. The department shall post all of the comments  
7 received to the department’s website without delay.

8 “(2) After the close of the public comment period described in subsection (1) of this section, the  
9 department shall issue a [*preliminary decision*] **proposed order** to approve, disapprove or modify a  
10 rate filing. The department shall notify the insurer of, and make available to the public, the [*pre-*  
11 *liminary decision*] **proposed order**, including:

12 “(a) An explanation of the findings and rationale that are the basis for the [*preliminary*  
13 *decision*] **proposed order**; and

14 “(b) Any actuarial or other analyses, calculations or evaluations relied upon by the department  
15 in arriving at the [*preliminary decision*] **proposed order**.

16 “(3) The department shall provide the insurer or any person adversely affected or aggrieved by  
17 the [*preliminary decision*] **proposed order** the opportunity to meet with the department to discuss  
18 and respond to the [*preliminary decision*] **proposed order**. However, an insurer or other person may  
19 not substitute new facts or data for the facts or data submitted by the insurer in the filing. The  
20 meeting shall:

21 “(a) Include a department employee who reviewed the rate filing; and

22 “(b) Comply with the requirements of ORS 192.610 to 192.705.

23 “(4)(a) The department shall issue a [*proposed*] **final** order, no later than 30 days after the de-  
24 partment issues a [*preliminary decision*] **proposed order** under subsection (2) of this section, to ap-  
25 prove, disapprove or modify the rate filing based on the [*information submitted during the public*  
26 *comment period*] **meeting held under subsection (3) of this section**.

27 “(b) In issuing the [*proposed*] **final** order, the department may not consider new facts or data  
28 that are offered as a substitute for the facts or data submitted by the insurer in the filing.

29 “(c) The department shall mail the [*proposed*] **final** order to the insurer and post the [*proposed*]  
30 **final** order to the department’s website.

31 “(d) The [*proposed*] **final** order must include:

32 “(A) An explanation of the findings and rationale that are the basis for the [*proposed*] **final** or-  
33 der, including any actuarial or other analyses, calculations or evaluations relied upon by the de-  
34 partment in its findings or rationale; and

35 “(B) Notice of the right of the insurer or any person adversely affected or aggrieved by the

1 [proposed] **final** order to [request a review by] **petition** the Director of the Department of Consumer  
2 and Business Services **for reconsideration**, in accordance with subsection [(6)] **(5)** of this section,  
3 no later than 10 days after the date that the [proposed] **final** order was issued.

4 “[5] *If the insurer or person adversely affected or aggrieved by the proposed order does not timely*  
5 *request a review of the proposed order by the director, the director shall issue a final order as de-*  
6 *scribed in subsection (6)(d) of this section.*]

7 “[6] **(5)** If the insurer or a person adversely affected or aggrieved by the [proposed] **final** order  
8 timely [requests a review by the director of the proposed] **petitions the director to reconsider the**  
9 **final** order:

10 “(a) The requester may not substitute new facts or data for the facts and data that were sub-  
11 mitted by the insurer in the filing, but may provide a brief, memorandum or analysis based on the  
12 evidence contained in the filing or received and considered by the department during the public  
13 comment period;

14 “(b) The director may not delegate the decision-making authority for the request for review to  
15 any other individual;

16 “(c) The director shall issue a final order **upon reconsideration** no later than 30 days after the  
17 [request for review] **petition for reconsideration** is received by the director; and

18 “(d) The final order **upon reconsideration** shall [include]:

19 “(A) **Include** an explanation of the findings and rationale that are the basis for the final order;  
20 and

21 “(B) [Notice of the right to a contested case hearing in accordance with ORS chapter 183] **Be**  
22 **mailed to the insurer and posted on the department’s website.**

23 “[7](a)] **(6)(a)** If, following the issuance of a final order **or final order upon reconsideration**  
24 under subsection [(6)(c)] **(4) or (5)** of this section but before the effective date of the premium rates  
25 approved by the final order, an event occurs that materially affects the director’s decision to ap-  
26 prove the rates, the director may open a new public comment period for a period of time that the  
27 director determines is necessary to receive comments concerning the event. Based upon the event  
28 and the public comments received, the director shall affirm the final order **or final order upon**  
29 **reconsideration** by providing a written explanation of the basis for affirming the final order **or**  
30 **final order upon reconsideration** or issue a new proposed order, as described in subsection [(4)]  
31 **(2)** of this section.

32 “(b) In the consideration of public comments or the event described in paragraph (a) of this  
33 subsection or in issuing any new proposed order, the director:

34 “(A) May not consider new facts or data that are offered as a substitute for the facts or data  
35 submitted by the insurer in the original filing.

36 “(B) May consider supplemental facts or data reasonably related to the event described in par-  
37 agraph (a) of this subsection.

38 “**(7) A final order or final order upon reconsideration issued pursuant to this section is**  
39 **subject to review under ORS 183.484.**

40 “(8) Subsections (2) to [(7)] **(6)** of this section do not require the department to perform any  
41 actuarial or other analyses, calculations or evaluations.

42 “(9) The department may adopt rules modifying the procedures described in subsections (2) to  
43 [(7)] **(6)** of this section, but only to the extent necessary to comply with 42 U.S.C. 300gg-94.”.