

A-Engrossed
House Bill 2339

Ordered by the House April 7
Including House Amendments dated April 7

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Consumer and Business Services)

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.

Prohibits health care provider or participating health care facility from balance billing patient covered by health benefit plan or health care service contract for services provided at participating health care facility. Requires insurer and health care service contractor to reimburse nonparticipating provider at *[rate that is reasonable and customary. Requires insurer and health care service contractor to have process to resolve dispute regarding reimbursement paid to nonparticipating provider]* **specified rates.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to claims for reimbursement of the cost of health care services; creating new provisions;
3 amending ORS 750.055; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of the Insurance Code.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Emergency services” has the meaning given that term in ORS 743A.012.**

8 (b) **“Enrollee” means:**

9 (A) **An individual who is enrolled in a health benefit plan or a covered dependent or**
10 **beneficiary of the individual; or**

11 (B) **A subscriber to a health care service contract or a covered dependent or beneficiary**
12 **of the subscriber.**

13 (c) **“Facility-based provider” means a person that provides medical, surgical, hospital,**
14 **clinical laboratory or radiological services in a participating health care facility.**

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

16 (e) **“Health care facility” has the meaning given that term in ORS 442.015, excluding long**
17 **term care facilities.**

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

19 (g) **“Participating” means that a provider or health care facility has contracted with an**
20 **insurer or a health care service contractor to be reimbursed at a negotiated rate for services**
21 **provided to enrollees in a health benefit plan or health care service contract offered by the**
22 **insurer or health care service contractor.**

23 (h) **“Provider” means:**

24 (A) **An individual who is licensed, certified or registered to provide health care items or**
25 **services in this state.**

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 (B) A laboratory, as defined in ORS 438.010.

2 (C) A health care facility.

3 (D) A medical imaging licensee, as defined in ORS 688.405.

4 (E) A radiologist, as defined in ORS 688.405.

5 (2)(a) Except for applicable coinsurance, copayments or deductible amounts that apply
6 to services provided by a participating provider, a participating health care facility or a
7 facility-based provider who is not a participating provider may not bill an enrollee for emer-
8 gency services or other inpatient or outpatient services provided to the enrollee at a partic-
9 ipating health care facility.

10 (b) If an enrollee chooses to receive services from a nonparticipating provider, the non-
11 participating provider shall inform the enrollee that the enrollee will be financially respon-
12 sible for coinsurance, copayments or other out-of-pocket expenses attributable to choosing
13 a nonparticipating provider.

14 (3) An insurer and a health care service contractor shall reimburse a facility-based pro-
15 vider who is not a participating provider:

16 (a) For nonemergency services, at a rate that is equal to 175 percent of the amount paid
17 by Medicare for the same or similar services in the same geographic area.

18 (b) For emergency services, the greatest of:

19 (A) The median amount negotiated for the service between the insurer or health care
20 service contractor and participating providers, minus any copayment or coinsurance appli-
21 cable to participating providers.

22 (B) The amount calculated using the same method the insurer or health care service
23 contractor uses to establish the reimbursement paid to nonparticipating providers, minus
24 any copayment or coinsurance applicable to the service.

25 (C) The amount paid by Medicare for the same or similar service in the same geographic
26 area.

27 **SECTION 3.** ORS 750.055, as amended by section 7, chapter 59, Oregon Laws 2015, is amended
28 to read:

29 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
30 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

31 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
32 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
33 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
34 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

35 (b) ORS 731.485, except in the case of a group practice health maintenance organization that is
36 federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and
37 operates an in-house drug outlet.

38 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
39 including ORS 732.582.

40 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
41 to 733.780.

42 (e) ORS chapter 734.

43 (f) ORS 735.600 to 735.650.

44 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
45 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044,

1 743.050, 743.100 to 743.109, 743.402, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522,
2 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
3 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051, 743A.058, 743A.062, 743A.064,
4 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,
5 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,
6 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003
7 to 743B.127, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,
8 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320, 743B.323,
9 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,
10 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.540, 743B.550, 743B.555,
11 743B.601 and 743B.800 and section 2, chapter 771, Oregon Laws 2013, **and section 2 of this 2017**
12 **Act.**

13 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and
14 third party administrators.

15 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
16 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

17 (j) ORS 743A.024, except in the case of group practice health maintenance organizations that
18 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is
19 referred by a physician, physician assistant or nurse practitioner associated with a group practice
20 health maintenance organization.

21 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

22 (3) Any for-profit health care service contractor organized under the laws of any other state that
23 is not governed by the insurance laws of the other state is subject to all requirements of ORS
24 chapter 732.

25 (4) The Director of the Department of Consumer and Business Services may, after notice and
26 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
27 and 750.045 that are deemed necessary for the proper administration of these provisions.

28 **SECTION 4.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, section
29 6, chapter 25, Oregon Laws 2014, section 81, chapter 45, Oregon Laws 2014, section 8, chapter 59,
30 Oregon Laws 2015, section 6, chapter 100, Oregon Laws 2015, section 6, chapter 224, Oregon Laws
31 2015, section 10, chapter 362, Oregon Laws 2015, section 9, chapter 470, Oregon Laws 2015, and
32 section 29, chapter 515, Oregon Laws 2015, is amended to read:

33 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
34 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

35 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
36 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
37 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
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39 (b) ORS 731.485, except in the case of a group practice health maintenance organization that is
40 federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and
41 operates an in-house drug outlet.

42 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
43 including ORS 732.582.

44 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
45 to 733.780.

1 (e) ORS chapter 734.

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32 **SECTION 5.** ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section
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12 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,
13 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,
14 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003
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19 743B.601 and 743B.800 **and section 2 of this 2017 Act.**

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27 health maintenance organization.

28 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

29 (3) Any for-profit health care service contractor organized under the laws of any other state that
30 is not governed by the insurance laws of the other state is subject to all requirements of ORS
31 chapter 732.

32 (4) The Director of the Department of Consumer and Business Services may, after notice and
33 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
34 and 750.045 that are deemed necessary for the proper administration of these provisions.

35 **SECTION 6. Section 2 of this 2017 Act and the amendments to ORS 750.055 by sections**
36 **3 to 5 of this 2017 Act become operative on January 1, 2019.**

37 **SECTION 7. The Department of Consumer and Business Services shall, before the oper-**
38 **ative date specified in section 6 of this 2017 Act, take any actions necessary to implement**
39 **section 2 of this 2017 Act and the amendments to ORS 750.055 by sections 3 to 5 of this 2017**
40 **Act on the operative date specified in section 6 of this 2017 Act.**

41 **SECTION 8. This 2017 Act being necessary for the immediate preservation of the public**
42 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
43 **on its passage.**