Enrolled
House Bill 2063

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Insurance Pool Governing Board)

CHAPTER .....

AN ACT

Relating to Insurance Pool Governing Board; creating new provisions; and amending ORS 735.700, 735.710, 735.720, 735.722, 735.724 and 735.738.

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

SECTION 1. ORS 735.700 is amended to read:

735.700. As used in ORS 735.700 to [*735.740*] **735.714**, unless the context requires otherwise:

[*(1) "Board" means the Insurance Pool Governing Board established under ORS 735.704.*]

[*(2)*] **(1)** "Carrier" means an insurance company or health care service contractor holding a valid certificate of authority from the Director of the Department of Consumer and Business Services, or two or more companies or contractors acting together pursuant to a joint venture, partnership or other joint means of operation.

[*(3) "Class of employee" means an employee classed as either management or nonmanagement employee.*]

[*(4)*] **(2)** "Eligible employee" means an employee of an employer who is employed by the employer for an average of at least 17.5 hours per week, sole proprietors, business partners, and limited partners. The term does not include individuals:

(a) Engaged as independent contractors.

(b) Whose periods of employment are on an intermittent or irregular basis.

[*(5)*] **(3)** "Family member" means an eligible employee's spouse, any unmarried child or stepchild within age limits and other conditions imposed by the **Insurance Pool Governing** Board with regard to unmarried children or stepchildren, or any other dependents eligible under the terms of the health benefit plan selected by the employee's employer.

[*(6)*] **(4)** "Health benefit plan" means a contract for group medical, surgical, hospital or any other remedial care recognized by state law and related services and supplies.

[*(7)*] **(5)** "Premium" means the monthly or other periodic charge for a health benefit plan.

SECTION 2. ORS 735.700, as amended by section 6, chapter 742, Oregon Laws 2003, is amended to read:

735.700. As used in ORS 735.700 to [*735.740*] **735.714**, unless the context requires otherwise:

[*(1) "Board" means the Insurance Pool Governing Board established under ORS 735.704.*]

[*(2)*] **(1)** "Carrier" means an insurance company or health care service contractor holding a valid certificate of authority from the Director of the Department of Consumer and Business Services, or two or more companies or contractors acting together pursuant to a joint venture, partnership or other joint means of operation.

[*(3) "Class of employee" means an employee classed as either management or nonmanagement employee.*]

[*(4)*] **(2)** "Eligible employee" means an employee of an employer who is employed by the employer for an average of at least 17.5 hours per week who elects to participate in one of the group benefit plans provided through **Insurance Pool Governing** Board action, and sole proprietors, business partners, and limited partners. The term does not include individuals:

(a) Engaged as independent contractors.

(b) Whose periods of employment are on an intermittent or irregular basis.

(c) Who have been employed by the employer for fewer than 90 days.

[*(5)*] **(3)** "Family member" means an eligible employee's spouse and any unmarried child or stepchild within age limits and other conditions imposed by the board with regard to unmarried children or stepchildren.

[*(6)*] **(4)** "Health benefit plan" means a contract for group medical, surgical, hospital or any other remedial care recognized by state law and related services and supplies.

[*(7)*] **(5)** "Premium" means the monthly or other periodic charge for a health benefit plan.

SECTION 3. ORS 735.710 is amended to read:

735.710. (1) In carrying out its duties under ORS 735.700 to **735.714 and 735.720 to** 735.740, the Insurance Pool Governing Board may:

(a) Enter into contracts for administration of ORS 735.700 to **735.714 and 735.720 to** 735.740 including collection of premiums and paying carriers.

(b) Retain consultants and employ staff.

(c) Enter into contracts with carriers or health care providers for health benefit plans.

(d) Set premium rates for eligible employees and small employers.

(e) Perform other duties to provide low-cost health benefit plans of types likely to be purchased by small employers.

(f) Establish contributions to be paid by small employers toward the premiums incurred on behalf of covered eligible employees.

(2) Notwithstanding any other health benefit plan contracted for and offered by the board, the board shall contract for a health benefit plan or plans best designed to meet the needs and provide for the welfare of eligible employees and small employers.

(3) The board may approve more than one carrier for each type of plan contracted for and offered, but the number of carriers shall be held to a number consistent with adequate service to eligible employees and family members.

(4) Where appropriate for a contracted and offered health benefit plan, the board shall provide options under which an eligible employee may arrange coverage for family members of the employee.

(5) In developing any health benefit plan, the board may provide an option of additional coverage for eligible employees and family members at an additional cost or premium.

(6) Transfer of enrollment from one health benefit plan to another shall be open to all eligible employees and family members under rules adopted by the board.

(7) If the board requests less health care service or benefit than is otherwise required by state law, a carrier is not required to offer such service or benefit.

(8) The board may contract for and offer health benefit plans for small employers that provide a sufficient level of benefits to be eligible for a subsidy under ORS 735.724 as well as health benefit plans for small employers that are not eligible for a subsidy under ORS 735.724.

(9) The board may employ whatever means are reasonably necessary to carry out the purposes of ORS 735.700 to **735.714 and 735.720 to** 735.740. Such authority includes but is not limited to authority to seek clarification, amendment, modification, suspension or termination of any agreement or contract which in the board's judgment requires such action.

SECTION 4. ORS 735.710, as amended by section 8, chapter 742, Oregon Laws 2003, is amended to read:

735.710. (1) In carrying out its duties under ORS 735.700 to **735.714 and 735.720 to** 735.740, the Insurance Pool Governing Board shall:

(a) Enter into contracts for administration of ORS 735.700 to **735.714 and 735.720 to** 735.740 including collection of premiums and paying carriers.

(b) Retain consultants and employ staff.

(c) Enter into contracts with carriers or health care providers for health benefit plans, including contracts where final payment may be reduced if usage is below a level fixed in the contract.

(d) Set premium rates for eligible employees and small employers.

(e) Perform other duties to provide low-cost health benefit plans of types likely to be purchased by small employers.

(f) Establish contributions to be paid by small employers toward the premiums incurred on behalf of covered eligible employees.

(2) Notwithstanding any other health benefit plan contracted for and offered by the board, the board shall contract for a health benefit plan or plans best designed to meet the needs and provide for the welfare of eligible employees and small employers.

(3) The board may approve more than one carrier for each type of plan contracted for and offered, but the number of carriers shall be held to a number consistent with adequate service to eligible employees and family members.

(4) Where appropriate for a contracted and offered health benefit plan, the board shall provide options under which an eligible employee may arrange coverage for family members of the employee.

(5) In developing any health benefit plan, the board may provide an option of additional coverage for eligible employees and family members at an additional cost or premium.

(6) Transfer of enrollment from one health benefit plan to another shall be open to all eligible employees and family members under rules adopted by the board.

(7) If the board requests less health care service or benefit than is otherwise required by state law, a carrier is not required to offer such service or benefit.

(8) Health benefit plans for small employers contracted for and offered by the board must provide a sufficient level of benefits to be eligible for a subsidy under ORS 735.724.

(9) The board may employ whatever means are reasonably necessary to carry out the purposes of ORS 735.700 to **735.714 and 735.720 to** 735.740. Such authority includes but is not limited to authority to seek clarification, amendment, modification, suspension or termination of any agreement or contract which in the board's judgment requires such action.

SECTION 5. ORS 735.720 is amended to read:

735.720. For purposes of ORS 735.720 to 735.740:

(1) "Carrier" has the meaning given that term in ORS 735.700.

[*(1)*] **(2)** "Eligible individual" means an individual who:

(a) Is a resident of the State of Oregon;

(b) Is not eligible for Medicare;

(c) Either has been without health benefit plan coverage for a period of time established by the Insurance Pool Governing Board, or meets exception criteria established by the board;

(d) Except as otherwise provided by the board, has family income less than 200 percent of the federal poverty level;

(e) Has investments and savings less than the limit established by the board; and

(f) Meets other eligibility criteria established by the board.

[*(2)*] **(3)** "Family" means:

(a) A single individual;

(b) An adult and the adult's spouse;

(c) An adult and the adult's spouse, all unmarried, dependent children under 23 years of age, including adopted children, children placed for adoption and children under the legal guardianship of the adult or the adult's spouse, and all dependent children of a dependent child; or

(d) An adult and the adult's unmarried, dependent children under 23 years of age, including adopted children, children placed for adoption and children under the legal guardianship of the adult, and all dependent children of a dependent child.

[*(3)*] **(4)**(a) "Health benefit plan" means a policy or certificate of group or individual health insurance, as defined in ORS 731.162, providing payment or reimbursement for hospital, medical and surgical expenses. "Health benefit plan" includes a [*medical savings account,*] health care service contractor or health maintenance organization subscriber contract, the Oregon Medical Insurance Pool and any plan provided by a less than fully insured multiple employer welfare arrangement or by another benefit arrangement defined in the federal Employee Retirement Income Security Act of 1974, as amended.

(b) "Health benefit plan" does not include coverage for accident only, specific disease or condition only, credit, disability income, coverage of Medicare services pursuant to contracts with the federal government, Medicare supplement insurance, student accident and health insurance, long term care insurance, hospital indemnity only, dental only, vision only, coverage issued as a supplement to liability insurance, insurance arising out of a workers′ compensation or similar law, automobile medical payment insurance, insurance under which the benefits are payable with or without regard to fault and that is legally required to be contained in any liability insurance policy or equivalent self-insurance or coverage obtained or provided in another state but not available in Oregon.

[*(4)*] **(5)** "Income" means gross income in cash or kind available to the applicant or recipient.

[*(5)*] **(6)** "Investment and savings" means cash, securities as defined in ORS 59.015, negotiable instruments as defined in ORS 73.0104 and such similar investments or savings as the board may establish that are available to the applicant or recipient to contribute toward meeting the needs of an applicant or eligible individual.

[*(6)*] **(7)** "Medicaid" means medical assistance provided under 42 U.S.C. section 1396a (section 1902 of the Social Security Act).

[*(7) "Medical savings account" means a trust that is created exclusively for the purpose of paying qualified medical expenses of the account holder and that qualifies for tax deduction under section 220 of the Internal Revenue Code. "Medical savings account" includes an associated high deductible health benefit plan.*]

(8) "Resident" means an individual who [*demonstrates to the Insurance Pool Governing Board that the individual is lawfully residing in Oregon and intends to reside in Oregon*] **meets the residency requirements established by rule by the Insurance Pool Governing Board**.

(9) "Subsidy" means payment or reimbursement to an eligible individual toward the purchase of a health benefit plan, and may include a net billing arrangement with [*insurance*] carriers or a prospective or retrospective payment for health benefit plan premiums and eligible copayments or deductible expenses directly related to the eligible individual.

(10) "Third-party administrator" means any insurance company or other entity licensed under the Insurance Code to administer health insurance benefit programs.

SECTION 6. ORS 735.722 is amended to read:

735.722. (1) There is established the Family Health Insurance Assistance Program in the Insurance Pool Governing Board. The purpose of the program is to remove economic barriers to health insurance coverage for residents of the State of Oregon with family income less than 200 percent of the federal poverty level, and investment and savings less than the limit established by the board, while encouraging individual responsibility, promoting health benefit plan coverage of children, building on the private sector health benefit plan system and encouraging employer and employee participation in employer sponsored health benefit plan coverage.

(2) The Insurance Pool Governing Board shall be responsible for the implementation and operation of the Family Health Insurance Assistance Program. The Administrator of the Office for Oregon Health Policy and Research, in consultation with the Oregon Health Policy Commission, shall make recommendations to the board regarding program policy, including but not limited to eligibility requirements, assistance levels, benefit criteria and [*insurance*] carrier participation. The board shall adopt all policy recommendations made by the Administrator of the Office for Oregon Health Policy and Research pursuant to this subsection.

(3) The board may contract with one or more third-party administrators to administer one or more components of the Family Health Insurance Assistance Program. Duties of a third-party administrator may include but are not limited to:

(a) Eligibility determination;

(b) Data collection;

(c) Assistance payments;

(d) Financial tracking and reporting; and

(e) Such other services as the board may deem necessary for the administration of the program.

(4) If the board decides to enter into a contract with a third-party administrator pursuant to subsection (3) of this section, the board shall engage in competitive bidding. The board shall evaluate bids according to criteria established by the board, including but not limited to:

(a) The [*applicant's*] **bidder's** proven ability to administer a program of the size of the Family Health Insurance Assistance Program;

(b) The efficiency of the [*applicant's*] **bidder's** payment procedures;

(c) The estimate provided of the total charges necessary to administer the program; and

(d) The [*applicant's*] **bidder's** ability to operate the program in a cost-effective manner.

SECTION 7. ORS 735.724 is amended to read:

735.724. (1) To enroll in the Family Health Insurance Assistance Program established in ORS 735.720 to 735.740, an applicant shall submit a written application to the Insurance Pool Governing Board or to the third-party administrator contracted by the board to administer the program pursuant to ORS 735.722 in the form and manner prescribed by the board. Except as provided in ORS 735.728, if the applicant qualifies as an eligible individual, the applicant shall either be enrolled in the program or placed on a waiting list for enrollment.

(2) After an eligible individual has enrolled in the program, the individual shall remain eligible for enrollment for the period of time established by the board.

(3) After an eligible individual has enrolled in the program, the board or third-party administrator shall issue subsidies in an amount determined pursuant to ORS 735.726 to either the eligible individual or to the [*health insurance*] carrier designated by the eligible individual, subject to the following restrictions:

(a) Subsidies may not be issued to an eligible individual unless all children, if any, in the eligible individual's family are covered under a health benefit plan or Medicaid.

(b) Subsidies may not be used to subsidize premiums on a health benefit plan whose premiums are wholly paid by the eligible individual's employer without contribution from the employee.

(c) Such other restrictions as the board may adopt.

(4) The board may issue subsidies to an eligible individual in advance of a purchase of a health benefit plan.

(5) To remain eligible for a subsidy, an eligible individual must enroll in a group health benefit plan if a plan is available to the eligible individual through the individual's employment and the employer makes a monetary contribution toward the cost of the plan, unless the board implements specific cost or benefit structure criteria that make enrollment in an individual health insurance plan more advantageous for the eligible individual.

(6) Notwithstanding ORS 735.720 [*(3)*] **(4)**(b), if an eligible individual is enrolled in a group health benefit plan available to the eligible individual through the individual's employment and the employer requires enrollment in both a health benefit plan and a dental plan, the individual is eligible for a subsidy for both the health benefit plan and the dental plan.

SECTION 8. ORS 735.738 is amended to read:

735.738. The Administrator of the Office for Oregon Health Policy and Research shall report biennially to the appropriate interim human resources committee and to the Legislative Assembly on the effectiveness and efficiency of the Family Health Insurance Assistance Program, including [*the use of medical savings accounts,*] services and benefits covered under the purchased health insurance plans, consumer satisfaction and other program operational issues.

SECTION 9. ORS 735.700, 735.702, 735.704, 735.706, 735.708, 735.710 and 735.714 are added to and made a part of ORS 735.700 to 735.714.

Passed by House February 3, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 1, 2005

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President of Senate

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State