

# House Bill 2064

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

## 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 **as introduced**.

Includes dependent elderly relative and dependent adult disabled child as part of family for purposes of Family Health Insurance Assistance Program. Clarifies certain health insurance statutes.

## A BILL FOR AN ACT

1  
2 Relating to Insurance Pool Governing Board; creating new provisions; and amending ORS 735.700,  
3 735.710, 735.720, 735.722 and 735.724.

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

5 **SECTION 1.** ORS 735.700 is amended to read:

6 735.700. As used in ORS 735.700 to [735.740] **735.714**, unless the context requires otherwise:

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

8 [(2)] (1) "Carrier" means an insurance company or health care service contractor holding a valid  
9 certificate of authority from the Director of the Department of Consumer and Business Services, or  
10 two or more companies or contractors acting together pursuant to a joint venture, partnership or  
11 other joint means of operation.

12 [(3) "Class of employee" means an employee classed as either management or nonmanagement em-  
13 ployee.]

14 [(4)] (2) "Eligible employee" means an employee of an employer who is employed by the em-  
15 ployer for an average of at least 17.5 hours per week, sole proprietors, business partners, and limited  
16 partners. The term does not include individuals:

17 (a) Engaged as independent contractors.

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

19 [(5)] (3) "Family member" means an eligible employee's spouse, any unmarried child or stepchild  
20 within age limits and other conditions imposed by the **Insurance Pool Governing** Board with re-  
21 gard to unmarried children or stepchildren, or any other dependents eligible under the terms of the  
22 health benefit plan selected by the employee's employer.

23 [(6)] (4) "Health benefit plan" means a contract for group medical, surgical, hospital or any  
24 other remedial care recognized by state law and related services and supplies.

25 [(7)] (5) "Premium" means the monthly or other periodic charge for a health benefit plan.

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

28 735.700. As used in ORS 735.700 to [735.740] **735.714**, unless the context requires otherwise:

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

30 [(2)] (1) "Carrier" means an insurance company or health care service contractor holding a valid

**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 certificate of authority from the Director of the Department of Consumer and Business Services, or  
 2 two or more companies or contractors acting together pursuant to a joint venture, partnership or  
 3 other joint means of operation.

4 [(3) “Class of employee” means an employee classed as either management or nonmanagement em-  
 5 ployee.]

6 [(4)] (2) “Eligible employee” means an employee of an employer who is employed by the em-  
 7 ployer for an average of at least 17.5 hours per week who elects to participate in one of the group  
 8 benefit plans provided through **Insurance Pool Governing** Board action, and sole proprietors,  
 9 business partners, and limited partners. The term does not include individuals:

- 10 (a) Engaged as independent contractors.
- 11 (b) Whose periods of employment are on an intermittent or irregular basis.
- 12 (c) Who have been employed by the employer for fewer than 90 days.

13 [(5)] (3) “Family member” means an eligible employee’s spouse and any unmarried child or  
 14 stepchild within age limits and other conditions imposed by the board with regard to unmarried  
 15 children or stepchildren.

16 [(6)] (4) “Health benefit plan” means a contract for group medical, surgical, hospital or any  
 17 other remedial care recognized by state law and related services and supplies.

18 [(7)] (5) “Premium” means the monthly or other periodic charge for a health benefit plan.

19 **SECTION 3.** ORS 735.710 is amended to read:

20 735.710. (1) In carrying out its duties under ORS 735.700 to **735.714 and 735.720 to** 735.740, the  
 21 Insurance Pool Governing Board may:

- 22 (a) Enter into contracts for administration of ORS 735.700 to **735.714 and 735.720 to** 735.740  
 23 including collection of premiums and paying carriers.
- 24 (b) Retain consultants and employ staff.
- 25 (c) Enter into contracts with carriers or health care providers for health benefit plans.
- 26 (d) Set premium rates for eligible employees and small employers.
- 27 (e) Perform other duties to provide low-cost health benefit plans of types likely to be purchased  
 28 by small employers.
- 29 (f) Establish contributions to be paid by small employers toward the premiums incurred on be-  
 30 half of covered eligible employees.

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

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

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

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

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

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

45 (8) The board may contract for and offer health benefit plans for small employers that provide

1 a sufficient level of benefits to be eligible for a subsidy under ORS 735.724 as well as health benefit  
2 plans for small employers that are not eligible for a subsidy under ORS 735.724.

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

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

9 735.710. (1) In carrying out its duties under ORS 735.700 to **735.714 and 735.720 to** 735.740, the  
10 Insurance Pool Governing Board shall:

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

13 (b) Retain consultants and employ staff.

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

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

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

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

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

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

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

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

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

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

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

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

41 **SECTION 5.** ORS 735.720 is amended to read:

42 735.720. For purposes of ORS 735.720 to 735.740:

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

44 [(1)] (2) "Eligible individual" means an individual who:

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

1 (b) Is not eligible for Medicare;

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

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

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

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

8 [(2)] (3)(a) "Family" means:

9 [(a)] (A) A single individual;

10 [(b)] (B) An adult and the adult's spouse;

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

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

17 (b) **A family includes a dependent elderly relative or a dependent adult disabled child who  
18 meets the criteria established by the board and who lives in the home of the adult described  
19 in paragraph (a) of this subsection.**

20 [(3)] (4)(a) "Health benefit plan" means a policy or certificate of group or individual health in-  
21 surance, as defined in ORS 731.162, providing payment or reimbursement for hospital, medical and  
22 surgical expenses. "Health benefit plan" includes a medical savings account, health care service  
23 contractor or health maintenance organization subscriber contract, the Oregon Medical Insurance  
24 Pool and any plan provided by a less than fully insured multiple employer welfare arrangement or  
25 by another benefit arrangement defined in the federal Employee Retirement Income Security Act of  
26 1974, as amended.

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

36 [(4)] (5) "Income" means gross income in cash or kind available to the applicant or [recipient]  
37 **applicant's family. "Income" does not mean earned income of minor children.**

38 [(5)] (6) "Investment and savings" means cash, securities as defined in ORS 59.015, negotiable  
39 instruments as defined in ORS 73.0104 and such similar investments or savings as the board may  
40 establish that are available to the applicant or [recipient] **applicant's family** to contribute toward  
41 meeting the needs of an applicant or eligible individual.

42 [(6)] (7) "Medicaid" means medical assistance provided under 42 U.S.C. section 1396a (section  
43 1902 of the Social Security Act).

44 [(7)] (8) "Medical savings account" means a trust that is created exclusively for the purpose of  
45 paying qualified medical expenses of the account holder and that qualifies for tax deduction under

1 section 220 of the Internal Revenue Code. “Medical savings account” includes an associated high  
2 deductible health benefit plan.

3 [(8)] (9) “Resident” means an individual who [*demonstrates to the Insurance Pool Governing*  
4 *Board that the individual is lawfully residing in Oregon and intends to reside in Oregon*] **meets the**  
5 **residency requirements established by rule by the Insurance Pool Governing Board.**

6 [(9)] (10) “Subsidy” means payment or reimbursement to an eligible individual toward the pur-  
7 chase of a health benefit plan, and may include a net billing arrangement with [*insurance*] carriers  
8 or a prospective or retrospective payment for health benefit plan premiums and eligible copayments  
9 or deductible expenses directly related to the eligible individual.

10 [(10)] (11) “Third-party administrator” means any insurance company or other entity licensed  
11 under the Insurance Code to administer health insurance benefit programs.

12 **SECTION 6.** ORS 735.722 is amended to read:

13 735.722. (1) There is established the Family Health Insurance Assistance Program in the Insur-  
14 ance Pool Governing Board. The purpose of the program is to remove economic barriers to health  
15 insurance coverage for residents of the State of Oregon with family income less than 200 percent  
16 of the federal poverty level, and investment and savings less than the limit established by the board,  
17 while encouraging individual responsibility, promoting health benefit plan coverage of children,  
18 building on the private sector health benefit plan system and encouraging employer and employee  
19 participation in employer sponsored health benefit plan coverage.

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

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

- 30 (a) Eligibility determination;
- 31 (b) Data collection;
- 32 (c) Assistance payments;
- 33 (d) Financial tracking and reporting; and
- 34 (e) Such other services as the board may deem necessary for the administration of the program.

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

- 38 (a) The applicant’s proven ability to administer a program of the size of the Family Health In-  
39 surance Assistance Program;
- 40 (b) The efficiency of the applicant’s payment procedures;
- 41 (c) The estimate provided of the total charges necessary to administer the program; and
- 42 (d) The applicant’s ability to operate the program in a cost-effective manner.

43 **SECTION 7.** ORS 735.724 is amended to read:

44 735.724. (1) To enroll in the Family Health Insurance Assistance Program established in ORS  
45 735.720 to 735.740, an applicant shall submit a written application to the Insurance Pool Governing

1 Board or to the third-party administrator contracted by the board to administer the program pur-  
2 suant to ORS 735.722 in the form and manner prescribed by the board. Except as provided in ORS  
3 735.728, if the applicant qualifies as an eligible individual, the applicant shall either be enrolled in  
4 the program or placed on a waiting list for enrollment.

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

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

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

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

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

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

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

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

27 **SECTION 8. ORS 735.700, 735.702, 735.704, 735.706, 735.708, 735.710 and 735.714 are added**  
28 **to and made a part of ORS 735.700 to 735.714.**

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