

A-Engrossed
Senate Bill 117

Ordered by the House June 2
Including House Amendments dated June 2

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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.

Makes certain persons eligible for medical insurance coverage under Oregon Medical Insurance Pool.

Declares emergency, effective July 1, 2005.

A BILL FOR AN ACT

1
2 Relating to eligibility for coverage under Oregon Medical Insurance Pool; amending ORS 735.605,
3 735.615, 735.625 and 735.645; and declaring an emergency.

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

5 **SECTION 1.** ORS 735.615 is amended to read:

6 735.615. (1) Except as provided in subsection (3) of this section, [*any individual*] **a** person who
7 is a resident of this state, as defined by the Oregon Medical Insurance Pool Board, [*shall be*] **is** el-
8 ible for pool coverage if:

9 (a) An insurer, or an insurance company with a certificate of authority in any other state, has
10 made within a time frame established by the board an adverse underwriting decision, as defined in
11 ORS 746.600 (1), on individual medical insurance for health reasons while the person was a resident;

12 (b) The person has a history of any medical or health conditions on the list adopted by the board
13 under subsection (2) of this section; [*or*]

14 (c) The person is a spouse or dependent of a person described in **paragraph (a) or (b) of this**
15 subsection[.]; **or**

16 **(d) The person is eligible for the credit for health insurance costs under section 35 of the**
17 **federal Internal Revenue Code, as amended and in effect on December 31, 2004.**

18 (2) The board may adopt a list of medical or health conditions for which a person is eligible for
19 pool coverage without applying for individual medical insurance pursuant to this section.

20 (3) A person is not eligible for coverage under ORS 735.600 to 735.650 if:

21 (a) Except as provided in ORS 735.625 [(3)(b)] **(3)(c)**, the person is eligible [*for health care bene-*
22 *fits under ORS chapter 414*] **to receive health services as defined in ORS 414.705** that exceed
23 those adopted by the board or is eligible for Medicare;

24 (b) The person has terminated coverage in the pool within the last 12 months and the termi-
25 nation was for a reason other than becoming eligible [*for health care benefits under ORS chapter*
26 *414*] **to receive health services as defined in ORS 414.705;**

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 (c) The board has paid out \$1 million in benefits on behalf of the person;

2 (d) The person is an inmate of or a patient in a public institution named in ORS 179.321;

3 (e) The person has, on the date of issue of coverage by the board, coverage under health insur-
4 ance or a self-insurance arrangement [*which*] **that** is substantially equivalent to coverage under ORS
5 735.625; or

6 (f) The person has the premiums paid or reimbursed by a public entity or a health care provider
7 for the sole purpose of reducing the financial loss or obligation of the payer.

8 (4) A person applying for coverage shall establish initial eligibility by such evidence as the plan
9 of operation shall require.

10 (5)(a) Notwithstanding ORS 735.625 (4)(c) and subsection (3)(a) of this section, if a person be-
11 comes eligible for Medicare after being enrolled in the pool for a period of time as determined by
12 the board by rule, that person may continue coverage within the pool as secondary coverage to
13 Medicare.

14 (b) The board may adopt rules concerning the terms and conditions for the coverage provided
15 under paragraph (a) of this subsection.

16 **(6) The board may adopt rules to establish additional eligibility requirements for a person**
17 **described in subsection (1)(d) of this section.**

18 **SECTION 2.** ORS 735.625 is amended to read:

19 735.625. (1) Except as provided in subsection [(3)(b)] **(3)(c)** of this section, the Oregon Medical
20 Insurance Pool Board shall offer major medical expense coverage to every eligible person.

21 (2) The coverage to be issued by the board, its schedule of benefits, exclusions and other limi-
22 tations, shall be established through rules adopted by the board, taking into consideration the advice
23 and recommendations of the pool members. In the absence of such rules, the pool shall adopt by rule
24 the minimum benefits prescribed by section 6 (Alternative 1) of the Model Health Insurance Pooling
25 Mechanism Act of the National Association of Insurance Commissioners (1984).

26 (3)(a) In establishing [*the pool*] **portability** coverage **under the pool**, the board shall [*take into*
27 *consideration*] **consider** the levels of medical insurance provided in [*the*] **this** state and medical
28 economic factors [*as may be deemed appropriate and shall promulgate*] **identified by the board. The**
29 **board may adopt rules to establish** benefit levels, deductibles, coinsurance factors, exclusions and
30 limitations [*determined to be*] **that the board determines are** equivalent to the portability health
31 benefit plans established under ORS 743.760.

32 **(b) In establishing medical insurance coverage under the pool, the board shall consider**
33 **the levels of medical insurance provided in this state and medical economic factors identified**
34 **by the board. The board may adopt rules to establish benefit levels, deductibles, coinsurance**
35 **factors, exclusions and limitations that the board determines are equivalent to those found**
36 **in the commercial group or employer-based medical insurance market.**

37 [(b)] (c) The board may provide a separate Medicare supplement policy for individuals under the
38 age of 65 who are receiving Medicare disability benefits. The board shall adopt rules to establish
39 benefits, deductibles, coinsurance, exclusions and limitations, premiums and eligibility requirements
40 for the Medicare supplement policy.

41 **(d) In establishing medical insurance coverage for persons eligible for coverage under**
42 **ORS 735.615 (1)(d), the board shall consider the levels of medical insurance provided in this**
43 **state and medical economic factors identified by the board. The board may adopt rules to**
44 **establish benefit levels, deductibles, coinsurance factors, exclusions and limitations to create**
45 **benefit plans that qualify the person for the credit for health insurance costs under section**

1 **35 of the federal Internal Revenue Code, as amended and in effect on December 31, 2004.**

2 (4)(a) Premiums charged for coverages issued by the board may not be unreasonable in relation
3 to the benefits provided, the risk experience and the reasonable expenses of providing the coverage.

4 (b) Separate schedules of premium rates based on age and geographical location may apply for
5 individual risks.

6 (c) The board shall determine the applicable medical and portability risk rates either by calcu-
7 lating the average rate charged by insurers offering coverages in the state comparable to the pool
8 coverage or by using reasonable actuarial techniques. The risk rates shall reflect anticipated expe-
9 rience and expenses for such coverage. Rates for pool coverage may not be more than 125 percent
10 of rates established as applicable for medically eligible individuals **or for persons eligible for pool**
11 **coverage under ORS 735.615 (1)(d)**, or 100 percent of rates established as applicable for portability
12 eligible individuals.

13 (d) The board shall annually determine adjusted benefits and premiums. [*Such*] **The** adjustments
14 [*will*] **shall** be in keeping with the purposes of ORS 735.600 to 735.650, subject to a limitation of
15 keeping pool losses under one percent of the total of all medical insurance premiums, subscriber
16 contract charges and 110 percent of all benefits paid by member self-insurance arrangements. The
17 board may determine the total number of persons that may be enrolled for coverage at any time and
18 may permit and prohibit enrollment in order to maintain the number authorized. Nothing in this
19 paragraph authorizes the board to prohibit enrollment for any reason other than to control the
20 number of persons in the pool.

21 (5)(a) [*Pool coverage may not exclude coverage for a period exceeding six months following the*
22 *effective date of coverage of an insured pursuant to a preexisting conditions provision or impose a*
23 *waiting period longer than 90 days.*] **The board may apply:**

24 **(A) A waiting period of not more than 90 days during which the person has no available**
25 **coverage; or**

26 **(B) Except as provided in paragraph (c) of this subsection, a preexisting conditions pro-**
27 **vision of not more than six months from the effective date of coverage under the pool.**

28 (b) In determining whether a preexisting conditions provision applies to an eligible enrollee,
29 except as provided in this subsection, the board shall credit the time the eligible enrollee was cov-
30 ered under a previous health benefit plan if the previous health benefit plan was continuous to a
31 date not more than 63 days prior to the effective date of the new coverage under the Oregon Med-
32 ical Insurance Pool, exclusive of any applicable waiting period. The Oregon Medical Insurance Pool
33 Board need not credit the time for previous coverage to which the insured or dependent is otherwise
34 entitled under this subsection with respect to benefits and services covered in the pool coverage
35 that were not covered in the previous coverage.

36 **(c) The board may adopt rules applying a preexisting conditions provision to a person who**
37 **is eligible for coverage under ORS 735.615 (1)(d).**

38 [(6)] **(d)** For purposes of this [*section*] **subsection**, a “preexisting conditions provision” means a
39 provision that excludes coverage for services, charges or expenses incurred during a specified period
40 not to exceed six months following the insured’s effective date of coverage, for a condition for which
41 medical advice, diagnosis, care or treatment was recommended or received during the six-month
42 period immediately preceding the insured’s effective date of coverage.

43 [(7)(a)] **(6)(a)** Benefits otherwise payable under pool coverage shall be reduced by all amounts
44 paid or payable through any other health insurance, or self-insurance arrangement, and by all hos-
45 pital and medical expense benefits paid or payable under any workers’ compensation coverage, au-

1 tomobile medical payment or liability insurance whether provided on the basis of fault or nonfault,
2 and by any hospital or medical benefits paid or payable under or provided pursuant to any state or
3 federal law or program except the Medicaid portion of the Oregon Health Plan offering a [*benefit*
4 *package*] **level** of health care services described in ORS [*414.837 (1)*] **414.707**.

5 (b) The board shall have a cause of action against an eligible person for the recovery of the
6 amount of benefits paid which are not for covered expenses. Benefits due from the pool may be re-
7 duced or refused as a setoff against any amount recoverable under this paragraph.

8 [(8)] (7) Except as provided in ORS 735.616, no mandated benefit statutes apply to pool coverage
9 under ORS 735.600 to 735.650.

10 [(9)] (8) Pool coverage may be furnished through a health care service contractor or such al-
11 ternative delivery system as will contain costs while maintaining quality of care.

12 **SECTION 3.** ORS 735.645 is amended to read:

13 735.645. [*On and after the date the pool becomes operational,*] Every insurer shall include a notice
14 of the existence of the Oregon Medical Insurance Pool in any adverse underwriting decision on in-
15 dividual medical insurance[, *as defined in ORS 735.615 (1)(a),*] for reasons of the health of the ap-
16 plicant, **as described in ORS 735.615 (1)(a)**.

17 **SECTION 4.** ORS 735.605 is amended to read:

18 735.605. As used in ORS 735.600 to 735.650:

19 (1) "Benefits plan" means the coverages to be offered by the pool to eligible persons pursuant
20 to ORS 735.600 to 735.650.

21 (2) "Board" means the Oregon Medical Insurance Pool Board.

22 (3) "Insured" means any individual resident of this state who is eligible to receive benefits from
23 any insurer.

24 (4) "Insurer" means:

25 (a) Any insurer as defined in ORS 731.106 or fraternal benefit society as defined in ORS 748.106
26 required to have a certificate of authority to transact health insurance business in this state, and
27 any health care service contractor as defined in ORS 750.005, issuing medical insurance in this state
28 on or after September 27, 1987.

29 (b) Any reinsurer reinsuring medical insurance in this state on or after September 27, 1987.

30 (c) To the extent consistent with federal law, any self-insurance arrangement covered by the
31 Employee Retirement Income Security Act of 1974, as amended, that provides health care benefits
32 in this state on or after September 27, 1987.

33 (d) All self-insurance arrangements not covered by the Employee Retirement Income Security
34 Act of 1974, as amended, that provides health care benefits in this state on or after September 27,
35 1987.

36 (5) "Medical insurance" means any health insurance benefits payable on the basis of hospital,
37 surgical or medical expenses incurred and any health care service contractor subscriber contract.
38 Medical insurance does not include accident only, disability income, hospital confinement indemnity,
39 dental or credit insurance, coverage issued as a supplement to liability insurance, coverage issued
40 as a supplement to Medicare, insurance arising out of a workers' compensation or similar law, au-
41 tomobile medical-payment insurance or insurance under which benefits are payable with or without
42 regard to fault and which is statutorily required to be contained in any liability insurance policy
43 or equivalent self-insurance.

44 (6) "Medicare" means coverage under [*both*] part A, [*and*] part B **and part D** of Title XVIII of
45 the Social Security Act, 42 U.S.C. 1395 et seq., as amended.

1 (7) "Plan of operation" means the plan of operation of the pool, including articles, bylaws and
2 operating rules, adopted by the board pursuant to ORS 735.600 to 735.650.

3 (8) "Pool" means the Oregon Medical Insurance Pool as created by ORS 735.610.

4 (9) "Reinsurer" means any insurer as defined in ORS 731.106 from whom any person providing
5 medical insurance to Oregon insureds procures insurance for itself in the insurer, with respect to
6 all or part of the medical insurance risk of the person.

7 (10) "Self-insurance arrangement" means any plan, program, contract or any other arrangement
8 under which one or more employers, unions or other organizations provide health care services or
9 benefits to their employees or members in this state, either directly or indirectly through a trust
10 or third party administrator, unless the health care services or benefits are provided by an insur-
11 ance policy issued by an insurer other than a self-insurance arrangement.

12 **SECTION 5. This 2005 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
14 **July 1, 2005.**