



Department of Consumer
and Business Services

STATE OF OREGON

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

DIVISION OF FINANCIAL REGULATION

MARKET CONDUCT EXAMINATION

REPRODUCTIVE HEALTH EQUITY ACT

OF

PROVIDENCE HEALTH PLAN

AS OF

DECEMBER 31, 2020

NAIC No. 95005

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FOREWORD

January 23, 2023

Honorable Andrew Stolfi
Director, Insurance Commissioner
Department of Consumer and Business Services
Division of Financial Regulation
350 Winter Street NE
Salem, Oregon 97301-3883

Dear Director Stolfi:

This market conduct examination report of Providence Health Plan (insurer) was prepared by independent examiners contracting with the Oregon Division of Financial Regulation (division). A market conduct examination is conducted for the purpose of examining certain business practices of insurers licensed to conduct business in the state of Oregon. The examiners conducted the examination of the insurer in accordance with the Oregon Revised Statutes (ORS) 731.300. All work papers and data developed in the production of this report are the sole property of the division. The examiner in charge was Jimmy R Potts, CIE, MCM, FLMI, CLU, AIRC.

Certain unacceptable or noncomplying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific insurer practices does not constitute acceptance of those practices by the division.

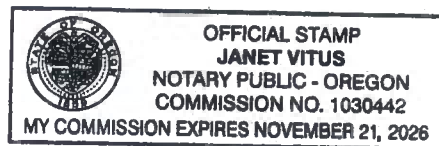
Respectfully Submitted,

Tashia Sizemore
Tashia Sizemore

Tashia Sizemore
Life and Health Program Manager

*Signed and acknowledged before me on January 24, 2023 by
Janet Vitus as notary in Marion County, State of Oregon.*

Janet Vitus



EXECUTIVE SUMMARY

In 2017, Oregon enacted House Bill (HB) 3391, known as the Reproductive Health Equity Act (RHEA). HB 3391 is now codified, in part, as Oregon Revised Statutes (ORS) 743A.067. RHEA requires, among other things, that a health benefit plan may not impose on an enrollee a deductible, coinsurance, copayment or any other cost-sharing requirements on the specific reproductive health services.

The focus of this targeted market conduct examination includes, but was not limited to, both insurer's claims and complaints as related to the RHEA codified at ORS 743A.067. The examiners identified instances where the insurer was not in compliance with RHEA laws in its administration of claims. Additionally, the insurer's policyholder services and complaints were reviewed with regard to RHEA.

The examiners, as set forth in detail in this examination report, concluded that the insurer's claims processing systems and procedures did not identify all of the claims which should have been considered under ORS 743A.067. Specific findings related to the examination are summarized below:

- **Non-compliance with ORS 743A.067 relating to the processing of claims** – The insurer failed to equitably settle claims when the insurer applied member cost share to services or supplies where such services or supplies are required to be provided without member cost share under Oregon law. The insurer's claims processing system failed to accurately pay claims according to RHEA. The insurer did not consider certain services subject to RHEA when those services were billed using certain CPT codes or received in specific settings. In some instances, the entire claim, including the physician office visit, should be paid without member cost share while in other instances only certain services on the claim would need to be covered.

The examiners observed during their review of claims adjudicated that it appeared that all pertinent diagnosis codes were not considered when determining if a CPT code should be considered without applying member cost share. Further, there are certain covered RHEA items that are to be paid without member cost share without consideration of the reason for the visit or the attendant diagnosis codes.

This examination report, relating to RHEA claims for the period of January 1, 2019, to December 31, 2020, may be forwarded to the division's Enforcement Unit for enforcement consideration while the insurer responds to the corrective actions identified in the examination report.

SCOPE AND METHODOLOGY

This market conduct examination report of Providence Health Plan (insurer) was prepared by independent examiners with the firm of Lewis & Ellis, LLC contracting with the Oregon Division of Financial Regulation (division).

The targeted market conduct examination of the insurer was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and under the authority set forth in ORS 731.300 and direction from the division. The examination of the company covered the period of time from January 1, 2019 to December 31, 2020, for business reviewed. The purpose of the examination was to determine the company's compliance with ORS 743A.067, Oregon's Reproductive and Health Equity Act (RHEA).

The following is taken directly from written documentation provided by Providence Health Plan:

In 1984, a nonprofit health maintenance organization was formed by Providence Portland Medical Center and Providence St. Vincent Hospital. The Oregon Division of Financial Regulation (DFR) issued an original certificate of authority on September 5, 1984, under the name Physician InterHospital Plan (also known as The Good Health Plan). The following year, the plan received approval as a federally qualified health maintenance organization by the U.S. Department of Health and Human Services. In 1996, The Good Health Plan was renamed Providence Health Plan after the merger with The Good Health Plan of Washington and with SelectCare Health Plan of Southern Oregon. The merger was approved by the DFR on November 24, 1997, to be effective January 1, 1988.

Providence Health Plan's sole controlling member is Providence Health & Services – Oregon (PH&S-OR). PH&S-OR is an Oregon nonprofit corporation whose sole controlling member is Providence Health & Services (PH&S), a not-for-profit network of hospitals, care centers, health plans, physicians, clinics, home health care, and affiliated services. PH&S is a Washington nonprofit corporation whose sole controlling member is Providence St. Joseph Health (PSJH). PSJH is a national, faith-based, not-for-profit health and social services system created by PH&S and St. Joseph Health with the goal of improving the health of the communities it serves.

Providence Health Plan, an Oregon nonprofit corporation, is a licensed health care service contractor in Oregon and Washington, and is authorized to offer health plans in both states. Providence Health Plan provides fully underwritten health coverage policies to individuals and employer groups and health benefit plan administrative services to self-funded groups and other third parties.

The examiners utilized examination by sample. Examination by sample involves the review of a selected number of records from within the population. File sampling was based on a review of complaints and RHEA medical and prescription drug claims incurred during the period under examination and selected at random using computer software applied to data files provided by the company. Samples are tested for compliance with standards established by the NAIC and adopted by the division.

The examiners asked that the insurer provide a written response to any claims where the examiners had questions regarding the processing of such claim prior to the examiners determining if such claim was processed incorrectly and a finding of non-compliance being issued regarding that claim.

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the commissioner. Failure to identify or criticize specific insurer practices does not constitute acceptance of those practices by the division.

FINDINGS AND OBSERVATIONS – COMPLAINT REVIEW

The examiners reviewed the entire population of complaints identified by the insurer and did not find any reportable exceptions.

FINDINGS AND OBSERVATIONS – MEDICAL CLAIMS REVIEW

The examiners reviewed paid and denied medical claims on the insurer's claim processing system to determine if the claim was properly adjudicated in accordance with Oregon's RHEA law. The company utilizes a third-party claims system for its claims adjudication system. Where apparent violations were noted, the examiners issued findings by line of business and by paid or denied status. The examiners found the claims adjudication was fairly consistent, meaning, if certain Common Procedural Terminology (CPT) code, also known as billing codes, were subject to member cost share in one instance it would most likely be subject to member cost share in other files reviewed. However, no assumptions were made that this would be true and each identified apparent violation was carefully reviewed by the examiners.

For each finding noted, the examiners requested that the insurer provide a PDF copy of the claim form submitted and all applicable explanation of benefits (EOB) related to that particular claim. Further, the examiners asked the insurer provide a written response to any claims where the examiners had questions regarding the processing of such claim prior to the examiners determining if the claim was processed incorrectly and a finding of noncompliance being issued regarding that claim.

In instances where the primary diagnosis code would indicate that the reason for the visit was a well woman, preventive or gynecological visit. the examiners required RHEA listed services to be

paid without member cost share. In other instances, the examiners determined that the primary reason for the visit was not related to RHEA and a member cost share could be applied to services that were not specific to RHEA. However, without regard to the listed diagnosis code, if a service was performed that was listed in ORS 743A.067, including screenings and services identified by the US Preventive Services Task Force (USPSTF) or the Health Resources and Services Administration of the US Department of Health and Human Services (HRSA) as a recommended preventive service, and member cost share was applied to that service, then such claims were identified as an apparent violation. Further, there could be multiple apparent violations identified and reported in a single file, however, for reporting of overall violations noted, each file is only counted once by the examiners.

EXAMINER COMMENT

The examiners submitted specific questions regarding claims processing to the insurer for response. The insurer provided various explanations for not processing a claim without member cost share as required under Oregon law. In numerous responses the insurer replied that coverage was not required by RHEA. The insurer did not appear to have made the requisite adjustments to its claims processing system to process claims under Oregon's RHEA law.

The examiners are of the opinion that the automated claims adjudication mapping used by the insurer to determine whether or not a claim should be subject to member cost share is not robust enough to capture all of the instances where member cost share should be waived.

It appears that during calendar year 2020 the insurer implemented a process to retroactively adjust claims with CPT codes that the company identified as RHEA claims and having to be covered without member cost share and which were not correctly adjudicated at the time the original claim was processed. The insurer adjusted claims with date of service of 1/1/2019 and later. It appears that the insurer did not identify all RHEA services, drugs, devices, products and procedures codes which were required to be considered without member cost share.

Specific diagnosis codes are not mentioned in ORS 743A.067, only specific coverages required to be covered without member cost share. Where the examiners cited a violation of member cost share requirements it is because the examiners reviewed the claim in totality and determined that certain CPT codes, giving deference to the stated diagnosis codes, should have been paid without member cost share regardless of gender, age, or frequency of claim. In many instances the entire claim was comprised of CPT codes which were required to be covered without member cost share, but member cost share was applied to one or more of the subject CPT codes. Where the examiners concluded the claim was subject to RHEA and the insurer assessed member cost share, the claim was cited as being in violation of Oregon law. Where a member may have received services which were excluded under the plan, any services required to be covered without member cost share under RHEA would still be eligible for payment. The statute's focus is on improving member access to reproductive health services and the required coverage is not dependent upon particular diagnosis codes or being the primary reason for the service.

In the Appendix, **Table 2**, sets the frequency that Oregon law was violated by line of business.

Finding 1: Noncompliance with ORS 743A.067 relating to the processing of claims

Denied claims – Large group

EXAMINER COMMENT

The examiners reviewed a sample of 109 large group denied RHEA claims from a population of 10,251 Large Group Denied claims. The division instructed insurers to consider a claim denied if any portion of the claim was denied. Therefore, the examiners would review the claim in totality as it was adjudicated. If upon the examiners' review it was determined that a portion of the claim was incorrectly paid, it would be cited even though it was not the denied component. The examiners determined that violations of Oregon law occurred in the processing of certain claims.

The company was not in compliance with ORS 743A.067 in that the company applied member cost share to services or supplies where such services or supplies are required to be provided without member cost share by Oregon law.

There were 66 violations noted which affected 14 denied claims, however each claim is only criticized one time.

Denied claims – Large group

Population	Sample size	Number of errors	Error rate
10,251	109	14	13%

Paid claims – Large group

The examiners reviewed a sample of 109 large group paid RHEA claims from a population of 161,041 large group paid claims. The examiners determined that violations of Oregon law occurred in the processing of certain claims.

The company was not in compliance with ORS 743A.067 in that the company applied member cost share to services or supplies where such services or supplies are required to be provided without member cost share by Oregon law.

There were 72 violations noted which affected 15 paid claims, however each claim is only criticized one time.

Paid claims – Large group

Population	Sample size	Number of errors	Error rate
161,041	109	15	14%

Denied claims – Small group

The examiners reviewed a sample of 108 small group denied RHEA claims from a population of 7,042 small group denied claims. The company, in its instructions for providing denied claims data, was instructed to consider a claim denied if any portion of the claim was denied. Therefore, the examiners would review the claim in totality as it was adjudicated. If upon the examiners’ review it was determined that a portion of the claim was incorrectly paid, it would be cited even though it was not the denied component. The examiners determined that violations of Oregon law occurred in the processing of certain claims.

The company was not in compliance with ORS 743A.067 in that the company applied member cost share to services or supplies where such services or supplies are required to be provided without member cost share by Oregon law.

There were 24 violations noted which affected five denied claims, however each claim is only criticized one time.

Denied claims – Small group

Population	Sample size	Number of errors	Error rate
7,042	108	5	5%

Paid claims – Small group

The examiners reviewed a sample of 109 small group paid RHEA claims from a population of 115,873 small group paid claims. The examiners determined that violations of Oregon law occurred in the processing of certain claims.

The company was not in compliance with ORS 743A.067 in that the company applied member cost share to services or supplies where such services or supplies are required to be provided without member cost share by Oregon law.

There were 136 violations noted which affected 27 paid claims, however each claim is only criticized one time.

Paid claims – Small group

Population	Sample size	Number of errors	Error rate
115,873	109	27	25%

Denied claims – Individual

The examiners reviewed a sample of 109 individual denied RHEA claims from a population of 14,488 individual denied claims. The company, in its instructions for providing denied claims data, was instructed to consider a claim denied if any portion of the claim was denied. Therefore, the examiners would review the claim in totality as it was adjudicated. If upon the examiners’ review it was determined that a portion of the claim was incorrectly paid, it would

be cited even though it was not the denied component. The examiners determined that violations of Oregon law occurred in the processing of certain claims.

The company was not in compliance with ORS 743A.067 in that the company applied member cost share to services or supplies where such services or supplies are required to be provided without member cost share by Oregon law.

There were 50 violations noted which affected 10 denied claims, however each claim is only criticized one time.

Denied claims – Individual

Population	Sample size	Number of errors	Error rate
14,488	109	10	9%

Paid claims – Individual

The examiners reviewed a sample of 109 individual paid RHEA claims from a population of 168,812 individual paid claims. The examiners determined that violations of Oregon law occurred in the processing of certain claims.

The company was not in compliance with ORS 743A.067 in that the company applied member cost share to services or supplies where such services or supplies are required to be provided without member cost share by Oregon law.

There were 61 violations noted which affected 12 paid claims, however each claim is only criticized one time.

Paid claims – Individual

Population	Sample size	Number of errors	Error rate
116,812	109	12	11%

RECOMMENDATIONS

The examiners recommend:

1. The insurer review its policies and procedures to assure that all claims are adjudicated in accordance with Oregon insurance law, including but not limited to, ORS 743A.067.
2. The insurer review its claims adjudication system and make all necessary adjustments to assure that claims are adjudicated in accordance with Oregon insurance law, including but not limited to, ORS 743A.067.
3. The insurer identify all pertinent CPT codes for services, drugs, devices, products and procedures listed in ORS 743A.067, and where applicable diagnosis codes required to properly adjudicate RHEA claims. The insurer should also consider that the purpose of ORS 743A.067 is to improve access the services identified in statute and limit medical management of those services to ensure access consistent with the purpose.

APPENDIX

Table 1: Errors by line of business

Line of Business	Total Population	Sample Claims	Number of errors	Error rate
Individual - paid medical claims	116,812	109	12	11%
Individual - denied medical claims	14,488	109	10	9%
Small group - paid medical claims	115,873	109	27	25%
Small group - denied medical claims	7,042	108	5	5%
Large group - paid medical claims	161,041	109	15	14%
Large group - denied medical claims	10,251	109	14	13%
RHEA CPT codes	N/A	N/A	1	N/A

Table 2 sets forth for each line of business the frequency that Oregon law was violated across all lines of business. The examiners specific findings are found under each finding listed after Table 2.

Statute	Large group denied	Large group paid	Small group denied	Small group paid	Individual denied	Individual paid	TOTAL VIOLATIONS BY STATUTE
743A.067(2)(a) Well woman care		1	2	5	1	3	12
743A.067(2)(b) STD counseling		1					1
743A.067(2)(c) Screening: (2)(c)A thru O	N/A	N/A	N/A	N/A	N/A	N/A	0
743A.067(2)(c)(A) Chlamydia	1	2	1	7	1	1	13
743A.067(2)(c)(B) Gonorrhea	1	2	1	7	1	1	13
743A.067(2)(c)(C) Hepatitis B	3	1		1	1		6
743A.067(2)(c)(D) Hepatitis C	3			1	1		5
743A.067(2)(c)(E) HIV/AIDS	4	2	1	4	1	1	13
743A.067(2)(c)(G) Syphilis		1			1		2
743A.067(2)(c)(H) Anemia	6	12	3	15	1	8	45

743A.067(2)(c)(I) Urinary tract infection	3	2	1	3		5	14
743A.067(2)(c)(J) Pregnancy	1			2	5	1	9
743A.067(2)(c)(K) RH incompatibility		1		5	1	2	9
743A.067(2)(c)(M) Osteoporosis					1		1
743A.067(2)(c)(N) Breast cancer	2				1		3
743A.067(2)(d) BRAC1 or BRAC2 Screening					1		1
743A.067(2)(l)(A) Education/counseli ng sterilization & contraception		1					1
743A.067(2)(m) Additional women preventive services		1		5		3	11
743A.067(3) Improper cost share	11	15	5	27	1	12	71
743A.067(4) Imposed delays					3		3
TOTALS BY MARKET	66	72	24	136	50	61	

Table 3 sets forth for each line of business the population, sample size and financial impact of the claims which were not properly adjudicated.

	Individual paid	Small group paid	Small group denied	Large group paid	Large group denied
CLAIMS POPULATION	10,251	161,041	7,042	115,873	14,488
RHEA SAMPLE	109	109	108	109	109
CLAIMS VIOLATIONS	66	72	26	136	50
NUMBER OF CLAIMS AFFECTED	14	15	5	27	10
PERCENTAGE VIOLATION	12.84%	13.76%	4.63%	24.77%	9.17%

Table 4 identifies findings in samples from the large group denied claims population.

Population:	Examination review item (sample)	Diagnosis code	CPT code	Finding
Large group – denied	21	O200	84702	Improper cost share
Large group – denied	51	Z79899	85027	Improper cost share
Large group – denied	56	Z13220	87536	Improper cost share
Large group – denied	61	Z3141	87340; 86803; 87389	Improper cost share – denied
Large group – denied	75	I10	87521; 81001	Improper cost share
Large group – denied	80	N183	82728; 83540; 83550; 85025; 81001	Improper cost share
Large group – denied	90	Z13220	85027	Improper cost share – denied
Large group – denied	Repl 7	F4323	85027	Improper cost share
Large group – denied	Repl 8	Z0289	86706	Improper cost share – denied
Large group – denied	Repl 34	Z0001	87491; 87591; 87389; 85027;	Improper cost share
Large group – denied	Repl 39	Z01419	87806	Improper cost share
Large group – denied	Repl 40	Z09	99213	Improper cost share
Large group – denied	Repl 41	N870	99213	Improper cost share
Large group – denied	Repl 46	R945	87340; 87521; 82728; 83540; 81001	Improper cost share

Table 5 identifies findings in samples from the large group paid claims population.

Population:	Examination Review Item (Sample)	Diagnosis Code	CPT Code	Finding
Large Group - Paid	27	Z113	87491; 87591; 87350	Improper cost share
Large Group - Paid	28	E559	85025; 82728	Improper cost share

Population:	Examination Review Item (Sample)	Diagnosis Code	CPT Code	Finding
Large Group - Paid	67	L659	82728; 85027	Improper cost share
Large Group - Paid	86	N921	99203	Improper cost share
Large Group - Paid	92	N390	87086; 87088	Improper cost share
Large Group - Paid	Supp 02	Z01419	80053; 85025	Improper cost share
Large Group - Paid	Repl 06	Z369	82728; 81001	Improper cost share
Large Group - Paid	Repl 10	N944	83550; 83540	Improper cost share
Large Group - Paid	Repl 27	E349	85014	Improper cost share
Large Group - Paid	Repl 28	E559	87491; 87591; 87389; 86592; 85027	Improper cost share
Large Group - Paid	Repl 31	Z0000	85025	Improper cost share
Large Group - Paid	Repl 37	O09519	87389; 85025; 86900	Improper cost share
Large Group - Paid	Repl 47	E039	85025	Improper cost share
Large Group - Paid	Repl 49	Z0000	85025	Improper cost share
Large Group - Paid	Repl 59	E119	85027	Improper cost share

Table 6 identifies findings from the small group denied population samples.

Population:	Examination review item (sample)	Diagnosis code	CPT code	Finding
Small group – denied	14	O99712	85025	Improper cost share
Small group – denied	20	Z0000	85027; 84100; 80053	Improper cost share
Small group – denied	83	E119	82728; 83540; 83550	Improper cost share
Small group – denied	89	Z01419	80050; 81001; 84439; 84550	Improper cost share

Population:	Examination review item (sample)	Diagnosis code	CPT code	Finding
Small group – denied	100	Z113	87491; 87591; 87535	Improper cost share

Table 7 identifies findings in the small group paid sample population.

Population:	Examination review item (sample)	Diagnosis code	CPT code	Finding
Small group – paid	7	Z0000	87491; 87591	Improper cost share
Small group – paid	9	Z113	8749190; 87591	Improper cost share
Small group – paid	12	L700	85025	Improper cost share
Small group – paid	14	E109	87491; 87591	Improper cost share
Small group – paid	22	F649	85025	Improper cost share
Small group – paid	26	Z3401	86900	Improper cost share
Small group – paid	30	Z7289	87491; 87591; 80074; 85025	Improper cost share
Small group – paid	35	Z113	85025	Improper cost share
Small group – paid	37	O09521	87389; 85025; 87086; 86900	Improper cost share
Small group – paid	41	Z3482	85025; 86900	Improper cost share
Small group – paid	45	E559	87491; 87591; 85025; 81001	Improper cost share
Small group – paid	54	Z3689	82728; 85025	Improper cost share
Small group – paid	56	Z114	87389	Improper cost share
Small group – paid	59	D560	85027	Improper cost share
Small group – paid	65	Z3491	86900	Improper cost share
Small group – paid	66	D696	87389	Improper cost share
Small group – paid	71	Z3480	85025; 81001XU; 86900	Improper cost share
Small group – paid	77	Z01419	86695; 86696	Improper cost share
Small group – paid	78	R5383	85025	Improper cost share
Small group – paid	81	Z3689	84702	Improper cost share

Population:	Examination review item (sample)	Diagnosis code	CPT code	Finding
Small group – paid	88	N920	87491; 87591; 85025; 84703	Improper cost share
Small group – paid	93	E119	8502791	Improper cost share
Small group – paid	94	Z7721	87389	Improper cost share
Small group – paid	100	Z113	87491; 87591	Improper cost share
Small group – paid	103	Z1159	85025	Improper cost share
Small group – paid	105	E1129	85025	Improper cost share
Small group – paid	108	Z01419	87480; 87510; 87660	Improper cost share

Table 8 identifies findings from the individual denied claims sample population.

Population:	Examination review item (sample)	Diagnosis code	CPT code	Finding
Individual – denied	1	N6311	19083; 77061; 77065	Improper cost share – denied
Individual – denied	6	Z3183	84702	Improper cost share – denied
Individual – denied	42	Z3183	84702	Improper cost share – denied
Individual – denied	66	Z3149	87340; 87389; 85025; 84702; 86900; 86901	Improper cost share – denied
Individual – denied	73	Z0289	87491; 87591; 86592	Improper cost share – denied
Individual – denied	75	M8589	77085	Improper cost share – denied
Individual – denied	92	Z3183	84702	Improper cost share – denied
Individual – denied	97	Z8541	81162	Improper cost share – denied
Individual – denied	98	Z1159	87522	Improper cost share
Individual – denied	106	Z3202	84702	Improper cost share – denied

Table 9 identifies findings from the individual paid claims sample population.

Population:	Examination review item (sample)	Diagnosis code	CPT code	Finding
Individual – paid	8	J029	87491; 87941XS; 87591; 87591XS	Improper cost share
Individual – paid	18	Z0000	87480; 87510; 87660	Improper cost share
Individual – paid	20	Z3481	85025; 81001; 86900	Improper cost share
Individual – paid	24	Z114	85027	Improper cost share
Individual – paid	25	E049	8502791	Improper cost share
Individual – paid	29	Z0000	82043; 80053; 85025; 81001XU	Improper cost share
Individual – paid	30	Z0000	80053; 8502791	Improper cost share
Individual – paid	60	E785	85025	Improper cost share
Individual – paid	71	O021	84702	Improper cost share
Individual – paid	83	N183	85014; 85018; 81001	Improper cost share
Individual – paid	86	R300	87086	Improper cost share
Individual – paid	93	O09811	87806; 85025; 81001; 86900	Improper cost share