45 CFR 146.121 – Prohibiting discrimination against participants and beneficiaries based on a health factor.

(a)(1) The term health factor means, in relation to an individual, any of the following health status-related factors:

- (i) Health status
- (ii) Medical condition (including both physical and mental illnesses)
- (iii) Claims experience
- (iv) Receipt of health care
- (v) Medical history
- (vi) Genetic information
- (vii) Evidence of insurability; or
- (viii) Disability

(a)(2) Evidence of insurability includes –

(i) Conditions arising out of acts of domestic violence; and

(ii) Participation in activities such a motorcycling, snowmobiling, all-terrain vehicle riding, horseback riding, skiing, and other similar activities.

45 CFR 146.122 – Additional Requirements prohibiting discrimination based on genetic information.

45 CFR 146.130 – Standards relating to benefits for mothers and newborns.

(b)(1) With respect to mothers –

(i) In general. A group health plan, and a health insurance issuer offering group health insurance coverage may not –

(A) Deny a mother or her newborn child eligibility or continued eligibility to enroll or renew coverage under the terms of the plan solely to avoid the requirements of this section; or

(B) Provide payments (including payments-in-kind) or rebates to a mother to encourage her to accept less than the minimum protections available under this section.

45 CFR 146.136 – Parity in mental health and substance use disorder benefits.

45 CFR 156.125(a) - Prohibition on discrimination.

(a) An issuer does not provide EHB if its benefit design, or the implementation of its benefit design, discriminates based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions.

(b) An issuer providing EHB must comply with the requirements of § 156.200(e) of this subchapter; and

(c) Nothing in this section shall be construed to prevent an issuer from appropriately utilizing reasonable medical management techniques.

45 CFR 156.200

(e) Non-discrimination. A QHP issuer must not, with respect to its QHP, discriminate on the basis of race, color, national origin, disability, age, sex, gender identity or sexual orientation.

PHSA 2706 - Non-Discrimination in Health Care.

(a) Providers- A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law. This section shall not require that a group health plan or health insurance issuer contract with any health care provider willing to abide by the terms and conditions for participation established by the plan or issuer. Nothing in this section shall be construed as preventing a group health plan, a health insurance issuer, or the Secretary from establishing varying reimbursement rates based on quality or performance measures.

(b) Individuals- The provisions of section 1558 of the Patient Protection and Affordable Care Act (relating to non-discrimination) shall apply with respect to a group health plan or health insurance issuer offering group or individual health insurance coverage.

ORS 746.015 Discrimination; noncompliance; hearing.

(1) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life, or between risks of essentially the same degree of hazard, in the availability of insurance, in the application of rates for insurance, in the dividends or other benefits payable under insurance policies, or in any other terms or conditions of insurance policies.

(2) Discrimination by an insurer in the application of its underwriting standards or rates based solely on an individual's physical disability is prohibited, unless such action is based on sound actuarial principles or is related to actual or reasonably anticipated experience. For purposes of this subsection, "physical disability" shall include, but not be limited to, blindness, deafness, hearing or speaking impairment or loss, or partial loss, of function of one or more of the upper or lower extremities.

(3) Discrimination by an insurer in the application of its underwriting standards or rates based solely upon an insured's or applicant's attaining or exceeding 65 years of age is prohibited, unless such discrimination is clearly based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(4)(a) An insurer may not, on the basis of the status of an insured or prospective insured as a victim of domestic violence or sexual violence, do any of the following:

(A) Deny, cancel or refuse to issue or renew an insurance policy;

(B) Demand or require a greater premium or payment;

(C) Designate domestic violence or sexual violence, physical or mental injuries sustained as a result of domestic violence or sexual violence or treatment received for such injuries as a condition for which coverage will be denied or reduced;

(D) Exclude or limit coverage for losses or deny a claim; or

(E) Fix any lower rate for or discriminate in the fees or commissions of an insurance producer for writing or renewing a policy.

(b) The fact that an insured or prospective insured is or has been a victim of domestic violence or sexual violence shall not be considered a permitted underwriting or rating criterion.

(c) Nothing in this subsection prohibits an insurer from taking an action described in paragraph (a) of this subsection if the action is otherwise permissible by law and is taken in the same manner and to the same extent with respect to all insureds and prospective insureds

without regard to whether the insured or prospective insured is a victim of domestic violence or sexual violence.

(d) An insurer that complies in good faith with the requirements of this subsection shall not be subject to civil liability due to such compliance.

(e) For purposes of this subsection, "domestic violence" means the occurrence of one or more of the following acts between family or household members:

(A) Attempting to cause or intentionally or knowingly causing physical injury;

(B) Intentionally or knowingly placing another in fear of imminent serious physical injury; or

(C) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(f) For purposes of this subsection, "sexual violence" means the commission of a sexual offense described in ORS 163.305 to 163.467, 163.427 or 163.525.

OAR 836-080-0050 - Authority; Purpose and Scope

OAR 836-080-0055 is issued under ORS 743.731 and the general rulemaking authority of the Director of the Department of Consumer and Business Services set forth in ORS 731.244(2). The purpose of OAR 836-080-0055 is to identify particular insurance practices involving distinctions based on sexual orientation and distinctions between men and women or between married and unmarried individuals that constitute unfair discrimination in violation of ORS 746.015.

OAR 836-080-0055 - Unfair Discrimination Identified

Distinctions based on sex, sexual orientation or marital status made in the following matters constitute unfair discrimination:

(1) The availability of a particular insurance policy.

(2) The availability of a particular amount of insurance or set of coverage delimiting factors.

(3) The availability of a particular policy coverage or type of benefit, except for those relating to physical characteristics unique to one sex.

(4) The premium for a particular insurance policy other than an individual or small group health benefit plan, unless the distinction is demonstrably based on reasonable supporting data.