HB 2002 Rules Advisory Committee
Gender Affirming Treatment

December 12, 2023

Department of Consumer
and Business Services

Welcome!

Agenda:

- Introductions
- Housekeeping & expectations
- Overview of rulemaking process & HB 2002
- Review draft rule
- Issues to address
- Public comment

Introductions

Committee roster:

- Amy Penkin - OHSU-Transgender Health
- Antoinette Awuakye - Cambia Health
- Chris Coughlin - Oregon Consumer Justice
- Courtni Dresser - Oregon Medical Association
- Everett Redente – CareOregon
- Glenn Baly - PEBB/OEBB
- Jonathan Frochtzwajg - Cascade AIDS Project
- Merlene Converse - Kaiser Permanente
- Richard Blackwell - PacificSource Health Plan
- Scott White - Moda Health
- Seth Johnstone - Basic Rights Oregon
- Tara Harrison - Providence Health Plan

Housekeeping & Expectations

- Video off, line muted if not speaking
- Raise hands to speak
- Chat is open
- Time reserved for public comment
- Note on language
- Good faith

Rulemaking Overview

- Section 20, HB 2002 - DCBS must adopt rules to implement the provisions of this section.
- Rule - Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy…
  - See ORS 183.310(9)
  - Has weight of law
  - Must be consistent with statute

Rulemaking Overview

- Role of Advisory Committee
  - Represent interests of those likely to be affected by rules
  - Provide advice and recommendations
- Adoption process
  - Notice
  - Public comment
  - Public hearing

HB 2002 - Definition of Gender-affirming Treatment

"Gender-affirming treatment" means a procedure, service, drug, device or product that a physical or behavioral health care provider prescribes to treat an individual for incongruence between the individual's gender identity and the individual's sex assignment at birth.

HB 2002 - Denials and limits prohibited

(2) A carrier offering a health benefit plan in this state may not:

(a) Deny or limit coverage under the plan for gender-affirming treatment that is:

(A) Medically necessary as determined by the physical or behavioral health care provider who prescribes the treatment; and

(B) Prescribed in accordance with accepted standards of care.

HB 2002 - Prohibited exclusions

(2) A carrier offering a health benefit plan in this state may not:

(b) Apply categorical cosmetic or blanket exclusions to medically necessary gender-affirming treatment.

(c) Exclude as a cosmetic service a medically necessary procedure prescribed by a physical or behavioral health care provider as gender-affirming treatment…

HB 2002 - Prohibited exclusions

(2) A carrier offering a health benefit plan in this state may not:

(c) Exclude as a cosmetic service a medically necessary procedure prescribed by a physical or behavioral health care provider as gender-affirming treatment, including but not limited to:

(A) Tracheal shave;

(B) Hair electrolysis;

(C) Facial feminization surgery or other facial gender-affirming treatment;

(D) Revisions to prior forms of gender-affirming treatment; and

(E) Any combination of gender-affirming treatment procedures.

HB 2002 – Adverse Benefit Determinations

(2) A carrier offering a health benefit plan in this state may not:

(d) Issue an adverse benefit determination denying or limiting access to gender-affirming treatment unless a physical or behavioral health care provider with experience prescribing or delivering gender-affirming treatment has first reviewed and approved the denial of or the limitation on access to the treatment.

HB 2002 – Adverse Benefit Determinations

743B.001 Definitions.

(1) "Adverse benefit determination" means an insurer's denial, reduction or termination of a health care item or service, or an insurer's failure or refusal to provide or to make a payment in whole or in part for a health care item or service, that is based on the insurer's:

(a) Denial of eligibility for or termination of enrollment in a health benefit plan;

(b) Rescission or cancellation of a policy or certificate;

(c) Imposition of a preexisting condition exclusion as defined in ORS 743B.005, source-of-injury exclusion, network exclusion, annual benefit limit or other limitation on otherwise covered items or services;

(d) Determination that a health care item or service is experimental, investigational or not medically necessary, effective or appropriate;

(e) Determination that a course or plan of treatment that an enrollee is undergoing is an active course of treatment for purposes of continuity of care under ORS 743B.225; or

(f) Denial, in whole or in part, of a request for prior authorization, a request for an exception to step therapy or a request for coverage of a treatment, drug, device or diagnostic or laboratory test that is subject to other utilization review requirements.

HB 2002 – Network Adequacy

(3) A carrier described in subsection (2) of this section must:

(a) Satisfy any network adequacy standards under ORS 743B.505 related to gender-affirming treatment providers; **and**…

HB 2002 – Network Adequacy

(3) A carrier described in subsection (2) of this section must:

(b)(A) Contract with a network of gender-affirming treatment providers that is sufficient in numbers and geographic locations to ensure that gender-affirming treatment services are accessible to all enrollees without unreasonable delay; **or**

(b)(B) Ensure that all enrollees have geographical access without unreasonable delay to out-of-network gender-affirming treatment services with cost-sharing or other out-of-pocket costs for the services no greater than the cost-sharing or other out-of-pocket costs for the services when furnished by an in-network provider.

HB 2002 – Network Adequacy

(3) A carrier described in subsection (2) of this section must:

(b)(A) Contract with a network of gender-affirming treatment providers that is sufficient in numbers and geographic locations to ensure that gender-affirming treatment services are accessible to all enrollees without unreasonable delay; **or**

(b)(B) Ensure that all enrollees have geographical access without unreasonable delay to out-of-network gender-affirming treatment services with cost-sharing or other out-of-pocket costs for the services no greater than the cost-sharing or other out-of-pocket costs for the services when furnished by an in-network provider.

Public Comment

Next Steps

- Proposed Bulletin – Comments due December 20, 2023
- Next meeting – January 9, 2024 1-3pm
- Division contacts:

Michael Schopf
Sr. Policy Analyst - Division of Financial Regulation
Department of Consumer and Business Services
503-313-8446
michael.d.schopf@dcbs.oregon.gov
Pronouns: he/him/his

Karen Winkel
Rules Coordinator
DCBS | Division of Financial Regulation
Karen.J.Winkel@dcbs.oregon.gov
Phone: 503-947-7694
Pronouns: she/her/hers