

Hello Karen,

I'm not sure if our suggestions of language were copied from the chat during the RAC meeting so just submitting our written comment on behalf of Basic Rights Oregon for HB2002 RAC due today. Let me know if there is a formal place I need to submit this.

-- In section 3, BRO proposes revising the draft language as follows to better ensure that providers reviewing adverse benefits determination have appropriate experience:

"Prior to issuing an adverse benefit determination that denies or limits access to gender-affirming treatment, a carrier offering a health benefit plan must have the adverse benefit determination reviewed and approved by a physical or behavioral health care provider who has at a minimum completed a GEI training course (offered by WPATH <https://www.wpath.org/gei/upcoming-gei-courses>) and can demonstrate experience in the practice area relevant to the gender-affirming treatment.

Recommended added language from WA rulemaking:

Health insurers may satisfy this requirement by providing the job title, a statement as to whether the expert is affiliated with the carrier as an employee, and the expert's specialty, board certification status, or other criteria related to the expert's qualification without providing the expert's name or address.

If an adverse benefit determination is based on medical necessity, decisions related to experimental treatment, or a similar exclusion or limit involving the exercise of professional judgment, the notification must contain either an explanation of the scientific or clinical basis for the determination, the manner in which the terms of the health plan were applied to the appellant's medical circumstances, or a statement that such explanation is available free of charge upon request. If an internal rule, guideline, protocol, or other similar criterion was relied on in making the adverse benefit determination, the notice must contain either the specific rule, guideline, protocol, or other similar criterion; or a statement that a copy of the rule, guideline, protocol, or other criterion will be provided free of charge to the appellant on request.

Washington has done rulemaking in this area and has active samples above and below for DCBS to examine.

<https://www.insurance.wa.gov/health-insurance-discrimination-and-gender-affirming-treatment-r-2021-14>

WASHINGTON RULEMAKING on SB5313:

(f) Effective April 1, 2022, the following statement: "Enrollees may request that a health insurer identify the medical, vocational, or other experts whose advice was obtained in connection with the adverse benefit determination, even if the advice was not relied on in making the determination. Health insurers may satisfy this requirement by providing the job title, a statement as to whether the expert is affiliated with the carrier as an employee, and the expert's specialty, board certification status, or other criteria related to the expert's qualification without providing the expert's name or address."; and (g) When the adverse benefit determination concerns gender affirming treatment or services, a confirmation that a health

care provider experienced with prescribing or delivering gender affirming treatment has reviewed the determination and confirmed that an adverse benefit determination denying or limiting the service is appropriate and provide information to confirm that the reviewing provider has clinically appropriate expertise prescribing or delivering gender affirming treatment.

Washington also specifies the coverage requirements during the waiting period for review. Please view the rulemaking link above and consider the same for Oregon patients awaiting review.

-- Finally in section 4, we propose adding the following language (modeled off of existing network-adequacy rules) to better ensure network adequacy for gender-affirming treatment:

"An insurer electing to demonstrate compliance with network adequacy requirements required under ORS 743.505B via the factor-based approach shall include in the insurer's evidence of compliance a narrative description of how the insurer complies with section (4)(a), along with the source and methodology, where applicable. The narrative description must include, at minimum:

- (a) Median enrollee wait times for gender-affirming treatment appointments for the prior calendar year; and
- (b) Evidence that the network includes a full range of gender-affirming treatment providers, including primary care providers, mental healthcare providers, endocrinologists, and surgeons providing gender-affirming treatment."

Thank you,

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