

June 24, 2024

Oregon Division of Financial Regulation  
Department of Consumer and Business Services  
350 Winter St. NE  
Fourth Floor  
Salem, OR 97301  
Attn: Brooke Hall, Lisa Emerson



**Subject:** Moda Health Comments on Gender-Affirming Treatment Rulemaking, HB 2002

Moda Health Plan, Inc. (Moda) appreciates the opportunity to provide comment to the Department of Consumer and Business Services' (DCBS) Division of Financial Regulation (DFR) efforts to adopt rule to implement House Bill 2002 (2023), Gender-Affirming Treatment. In this comment letter, Moda is providing feedback regarding the proposed definition of "unreasonable delay" found in Section 8 of the House Bill 2002 Revised Draft Rule dated June 9, 2024.

Moda has concerns with the DFR proposed definition of "unreasonable delay" which is defined as an appointment wait time that exceeds 30 business days for specialty care, 15 business days for primary care, and 10 business days for behavioral health care. House Bill 2002 (2023) does not suggest or require a unique definition of unreasonable delay that would apply to gender-affirming treatment services outside of the current rules for issuers found in *743B.505 Provider networks; rules*. Any revisions to the definition of unreasonable delay should be discussed and revised at an overarching level for all in-network covered services through future rulemaking outside of this specific rulemaking process.

In addition, House Bill 2002 requires that cost-sharing (deductible, co-insurance, copayments) be applied at the in-network level when gender-affirming treatment services are obtained out-of-network due to unreasonable delay. However, members will still be subject to balance billing when obtaining these services from out-of-network providers. Implementing the proposed definition of unreasonable delay could increase the financial burden on members through balance billing from out-of-network providers and will ultimately limit an issuer's ability to work with members to obtain gender-affirming treatment services in a safe, timely, and cost-effective manner.

Moda values our members and their ability to access a broad range of providers to meet their health care needs. Thank you for the opportunity to provide comments during this rulemaking process to further our shared goal of providing safe and timely access to our members.

Sincerely,

Scott White  
Director, Regulatory Affairs, Moda Health Plan, Inc.



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