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To:

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Thank you for giving Oregon Consumer Justice (OCJ) the opportunity to provide feedback on the draft rule related to the gender-affirming treatment provisions of HB 2002 (2023).

1. OCJ is concerned by the ambiguity implied in the network adequacy standard of “without unreasonable delay.” Such ambiguity could allow for long wait times which can adversely impact the health of those seeking gender-affirming care.¹ OCJ supports the efforts of section (8) in addressing this ambiguity and suggests adding the following language modeled after California² and Washington³’s existing network-adequacy rules to prevent detrimental waits for gender-affirming treatment.
 - I. Health insurers shall ensure that their contracted provider network has adequate capacity and availability of licensed gender-affirming healthcare providers to offer insureds appointments that meet the following timeframes:
 - A. Appointments for primary care: within 15 business days of the request for appointment, except as provided in subparagraph (c).
 - B. Appointments with specialist physicians: within 30 business days of the request for appointment except as provided in subparagraph (c).
 - C. Appointments for behavioral health care: within 10 business days of the request for appointment except as provided in subparagraph (c).
 - D. Consultations for gender-affirming surgery: within 9 months of the request for appointment.
 - E. The applicable waiting time for a particular appointment may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with

¹ [https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370\(24\)00236-0/fulltext](https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370(24)00236-0/fulltext)

² [Cal. Ins. Code § 10133.54 sec.5.](#)

³ [WAC 284-170-200 sec.13.](#)

professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the insured.

In Oregon, the existing network-adequacy requirements for CCOs (see section 14) don't sufficiently define wait times for surgery specifically, so the suggestion was added above in D.

The proposed wait times are derived from a review of state network adequacy standards. The network adequacy standards of California, New Jersey, Vermont, and Washington support a fifteen-day or less wait for primary care appointments. Washington and California also support a fifteen-day wait for specialty care appointments. California, Colorado, Illinois, Maine, New Hampshire, and Oregon⁴ support a ten-day or shorter wait for behavior care appointments.

The legislation and rules of 21 states with time or distance network adequacy standards were reviewed in preparing this comment on the revised rule. With them, 9 states (HI, CO, CT, DE, IL, MO, NH, VT, WA) prohibit unreasonable delay of appointments and medical services. Thirteen states (WA, CA, CO, FL, IL, ME, MO, MT, NJ, NM, TX, VT, WA) have network adequacy requirements which include limits on wait times for appointments.

2. OCJ supports the intent of HB2002 to uphold the federal No Surprises Act to prevent balance billing when patients must seek out-of-network care, especially where long wait times would allow a patient to be able to go out-of-network. OCJ does not want to see balance billing allowed under this rulemaking.

Thank you for your consideration of these comments.

⁴ OAR 410-141-3515 14(d(C))