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To:

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Thank you for giving Basic Rights Oregon the opportunity to provide feedback on the draft rule related to gender-affirming treatment within HB 2002 (2023).

1. In section 6c, the revised rule states that reviewing providers are not required to have completed WPATH training until July 1st, 2025 but rulemaking for HB2002 will be effective on January 1st, 2025. Basic Rights Oregon is requesting clarity on whether this will delay patient claim review or access to care. We would ask the department to clarify this impact on patient access to care and claim review. Basic Rights Oregon would take issue with the division allowing reviewing providers to administer adverse benefit determinations without the proper expertise in this area of care, which includes training from an accredited source approved by the division.
2. In the most recent revised rule, unreasonable delay for gender affirming care has not been defined. There means that there is not a criteria for when an insurance carrier should initiate and approve a patient to go out of network. There was reference during the last RAC meeting to wait for a future process that may seek to create definitions of acceptable wait times and clarify network adequacy standards generally. We are concerned waiting for this process beyond January 1st, 2025 will lead to continued denials of out of network requests from patients in the meantime. To provide example, our office receives calls from patients statewide and last week we received a call from a patient currently waiting 3 years for a consult appointment for facial gender confirmation surgery with an in-network surgeon. This patient, due to the unreasonable delay, requested approval to see a provider out of network who can see them for an appointment in 1 year instead of 3 years. This patient was told that 3 years is the "standard wait time" and therefore were denied the ability to go out of network.

As advocates for transgender healthcare access, our organization does not find 3 years to be an acceptable amount of delay for appointment wait times. Basic Rights Oregon would like to understand how the agency will define unreasonable delay in the meantime while we wait for the referenced future process of definition for network adequacy standards. It is clear from our work and studies in this field that decreased and unreasonably delayed access to gender-affirming care has a range of negative effects on transgender and gender diverse individuals. One option is to create a standard in the meantime to address this issue that will be replaced by the adoption of future rule rather than no standard until that process takes place.

Thank you for your consideration of these comments. Our organization appreciates the ability to provide feedback on the draft rules.

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