

September 23, 2025

Oregon Division of Financial Regulation
350 Winter Street NE
Salem, OR 97301
Submitted via email

Re: Comments on Network Access draft rules

Dear Ms. Hall,

Kaiser Foundation Health Plan of the Northwest appreciates the opportunity to provide feedback to the Oregon Division of Financial Regulation (DFR) on the network access draft regulation. Kaiser Permanente Northwest is an integrated health care system that covers and cares for Oregonians. We are committed to delivering affordable, coordinated, and high-quality care and coverage that supports not only our members but also the communities we serve.

Thank you for holding the Rulemaking Advisory Committee (RAC) on September 9th. Network adequacy is a complex topic, and we appreciate the robust discussions that are taking place. As a follow-up to the September 9th meeting, we have comments related to the timing of the first report submission using the new standards; expectations for a carrier to notify the DFR if access issues are identified; counting telemedicine providers toward network adequacy metrics; and provider to member ratio reporting.

Clarify the first year of reporting using the new standards

The new network adequacy standards will go into effect on January 1, 2026. OAR 836-053-XXXX Network Adequacy Reporting Requirements states an annual report due date of March 31. The language, however, is not clear about which year carriers will start reporting following the new standards. Carriers currently report on network adequacy using the existing standards in regulation. It's our understanding that the report submitted by March 31, 2026, will be based on the 2025 network access standards and that the first year of reporting under the new standards will be in 2027. It would be helpful for the regulation to include a sentence stating this. If the DFR's intention is for carriers to report information using the new standards in 2026, we note that there may need to be a different deadline for the first year of reporting. If the regulation and reporting templates are finalized on January 1, 2026, this allows only three months for carriers to implement the new standards; gather and analyze data from network providers and facilities; and submit filings to the DFR. We would appreciate having adequate time to carefully and thoughtfully prepare for the initial reporting using the new standards and templates.

Include a safe harbor provision and notification process for gaps

We support having an adequate provider network to meet the needs of our members. The regulation draft currently outlines the time to appointment standards, as well as other evidence of compliance data elements. This information is helpful in explaining the requirements to ensure consistency in how network adequacy is measured. We note that there are health care professional shortages in Oregon and the United States and that network adequacy standards do not create more health care professionals and physicians in Oregon that health carriers may contract with. The draft regulation does not currently address the expectations when a carrier identifies a network access gap or if the DFR identifies a gap.

It would be helpful for the regulation to provide a safe harbor provision if carriers cannot meet the standard for certain services. The provision could require carriers to notify the DFR of network adequacy gaps and demonstrate that there is either a lack of providers within a geographic area or a lack of providers willing to contract to provide the services. The carrier could then work in good faith to address those gaps without sanctions and make reasonable efforts to arrange care for patients.

Adjust the percentage of telemedicine providers that may be included in quantitative network adequacy standards

In (3) of draft rule OAR 836-053-XXXX Quantitative Network Adequacy Standards, carriers may use telemedicine providers to help satisfy the access requirements. The draft language currently states up to 10% for primary care and specialty care and up to 30% for behavioral health care services. Telemedicine is a popular option for members who want convenient access to their care without needing to drive to an in-person appointment. Carriers already cover telemedicine services, and being allowed to count telemedicine providers in network access gives a better overall picture of the provider network available to members. In the context of health care provider shortages in Oregon, we believe it is important to allow health carriers to count a higher percentage of telemedicine providers toward satisfying the access requirements. We recommend that the draft regulation be revised as follows:

- (3) In meeting the quantitative network adequacy standards in this rule for travel distance and time and appointment wait times, carriers may use telemedicine providers to satisfy up to:
 - (a) ~~10-30~~ percent of the access requirements for primary care and specialty care services; and
 - (b) ~~30-50~~ percent of the access requirements for behavioral health care services.

Level of granularity for reporting behavioral health ratios

There was a suggestion at the RAC for carriers to report on the number of behavioral providers in relation to the number of patient population that would seek behavioral health care vs. the general number of expected members. The DFR asked if carriers had the capability to report at that level. We researched this issue and believe it would be complex to report at this granular level. Instead, we would prefer to report on the provider to member ratio using the general number of expected members. This approach would provide a consistent number of members in the calculations for all medical and behavioral health services for a specific provider network.

Thank you for the opportunity to provide comments on this stakeholder draft. We look forward to our continued collaboration throughout this rulemaking process.

Sincerely,



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