

NOTICE OF PROPOSED RULEMAKING

STATEMENT OF NEED AND FISCAL IMPACT

Filing caption: List of Prosthetic and Orthotic Devices under Oregon SB 797 (2023)

Public comment deadline: 10/29/2025

Effective Date: 1/1/2026

HEARING

Date: 10/22/2025

Time: TBD

Officer: Ethan Baldwin

Location: Labor & Industries Building
350 Winter St. NE
Basement, Conf Rm E
Salem, OR 97301

TBD

NEED FOR RULE(S)

Provide background on why the rule is needed, including a short summary of the rulemaking authority and statutes implemented. Provide a summary of what the rule does. Describe the involvement of the RAC, including the types of stakeholders that were invited to and did participate. Specify if any of the stakeholders were small businesses.

ORS 743A.15 requires the Department of Consumer and Business Services (DCBS) to adopt and annually update rules listing the prosthetic and orthotic devices that must be covered under the bill. The list of devices must be no more restrictive than the list of devices used in the Medicare fee schedule. Further, the passage of SB 699 (2025) requires coverage of multiple devices would need to be covered if determined to be medically necessary and the most appropriate model that meets the medical needs of the insured for performing physical activities, and that maximizes the insured's whole-body health, including lower and upper limb function. The bill directed DCBS to include this expanded coverage in its rulemaking.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:

(Who is this going to impact and how might it impact one group of people differently than others?)

The proposed rules result in new substantive coverage requirements. Key groups affected by these rules include Oregon health insurers, consumers that purchase health insurance policies in this state, and individuals enrolled in health insurance policies in this state. The proposed rule will most directly impact Oregon health insurers. Health insurers will need to continue to ensure that each health insurance policy offered in this state provides coverage for the prosthetic and orthotic devices listed in the rule and complies with all other provisions of the rule.

The division is not aware of any data suggesting a disproportionate impact on any specific groups of enrollees or policyholders.

Importantly, these rules and the underlying statute may contribute to advancing health equity by ensuring equitable access for individuals with limb loss and limb difference who are enrolled in individual or group health insurance policies. These individuals will be assured that any health insurance policy offered in this state will provide coverage for a broad range of prosthetic and orthotic devices, and the availability of insurance coverage to offset costs will make those devices more affordable and accessible to individuals who need them. These benefits will likely be disproportionately experienced by Oregonians most at risk for injuries or other health conditions resulting in amputation, including but not limited to veterans or people with diabetes.

FISCAL AND ECONOMIC IMPACT:

Based on information available to DCBS, briefly discuss the cost of compliance for businesses, generally. State whether there are compliance costs for small businesses (independently owned and operated with fewer than 50 employees).

The primary cost of complying with these rules will fall on licensed health insurers. Based on financial filings made to DFR, no health insurer meets the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

The rules may have indirect impacts upon businesses, including small businesses, that purchase a fully insured group health insurance policy in Oregon. Because plans sold to employers with fewer than 50 employees are already required to cover prosthetic and orthotic devices as part of Oregon's essential health benefits under ORS 731.097 and 743B.013, the adoption of these rules is not expected to have a significant additional cost impact on small employers.

Based on the information available to DCBS, the proposed rules would not have any additional fiscal or economic impact on state agencies, local governments or the public beyond the underlying statutory requirements.

COST OF COMPLIANCE FOR SMALL BUSINESSES

(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.

Based on information currently available to DCBS, the proposed rule does not have a fiscal or economic impact on state agencies or local government units.

Members of the public who may be economically affected by the rulemaking may include health insurers that offer policies that are subject to the rule, individuals and businesses that purchase health insurance policies in this state, and any individuals enrolled in these plans.

The division does not have information available about economic impacts to other members of the public.

(2)(a) Estimate the number and type of small businesses subject to the rule(s).

These rules apply to health insurers offering health insurance policies that are subject to SB 699. Based on financial filings made to DFR, no health insurer meets the definition of a small business under ORS 183.310, because no health insurer is independently owned and operated.

(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).

The rules may impose recordkeeping and other administrative obligations on health insurers that may be necessary to ensure compliance with the list of devices and other requirements of these rules. The division does not have information available to estimate these costs. Because health benefit plans sold to individual and small employers are already required to cover prosthetic and orthotic devices, these rules are not expected to impose significant additional reporting, recordkeeping and administrative activities and costs.

Based on financial filings made to DFR, no health insurer meets the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Health insurers offering plans that are subject to these rules may incur costs related to professional services, labor, and increased administration. The division does not have information available to estimate these costs. Because health benefit plans sold to individuals and small employers are already required to cover prosthetic and orthotic devices, the rules are not expected to impose significant additional reporting, recordkeeping and administrative activities and cost.

Based on financial filings made to DFR, no insurers meet the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

How were small businesses involved in the development of the rule?

The Rules Advisory Committee included participation from advocacy organizations representing the interests of businesses providing prosthetic and orthotic services, some of which are likely small businesses. Representatives of small businesses were also invited, but did not participate.

Was an administrative rule advisory committee consulted? Yes.

The proposed rules were developed in conjunction with a Rules Advisory Committee (RAC) that included representatives of domestic health insurers and advocates for amputees and other persons with limb loss and limb difference. The committee held virtual meetings on July 31 and August 13, 2025.

Did membership of the RAC represent the interests of persons and communities likely to be affected by the rule? Yes.

The RAC represented the interests of health insurers and persons with limb loss and limb difference who are in need of prosthetic and orthotic devices.

RULE NUMBER AND SUMMARY

List each rule number and a short summary of what the rule does.

AMEND: OAR 836-052-1000

RULE SUMMARY: Establishes list of prosthetic and orthotic devices; prohibits internal or separate limits or caps on prosthetic and orthotic devices, other than the lifetime policy maximum, when permitted by law; defines when coverage for prosthetic and orthotic device is provided through a managed care organization.

STATUTORY REFERENCE

STATUTORY/OTHER AUTHORITY: Oregon Laws 2025, ch 259 (2025 Oregon Enrolled Senate Bill 699); ORS 731.244

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2025, ch 259 (2025 Oregon Enrolled Senate Bill 699)

TK Keen, Interim Insurance Commissioner

Signature	Printed name	Date
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LEGISLATOR NOTICE

If the rulemaking results from legislation passed within two years of this notice of proposed rulemaking, the agency must give notice to: 1) the legislator(s) who introduced the bill; and 2) the chair or co-chairs of all committees that reported the bill out. (Does not include referrals to other committees).

If the rule does not result from legislation within the last two years, notice shall be given to the chair or co-chairs of any interim or session committee with authority over the subject matter of the rule. If notice cannot be given to these individuals, notice shall be given to the Speaker of the House and the President of the Senate.

Name	Committee or Title	Email
Sen. Lisa Reynolds	Health Care	Sen.LisaReynolds@oregonlegislature.gov
Rep. Hai Pham	Behavioral Health and Health Care	Rep.HaiPham@oregonlegislature.gov
Rep. Ed Diehl	Behavioral Health and Health Care	Rep.EdDiehl@oregonlegislature.gov
Sen. Deb Patterson	Health Care	Sen.debpatterson@oregonlegislature.gov
Sen. Cedric Hayden	Health Care	Sen.cedrichayden@oregonlegislature.gov
Rep. Rob Nosse	Behavioral Health and Health Care	Rep.robnosse@oregonlegislature.gov
Rep. Cyrus Javadi	Behavioral Health and Health Care	Rep.cyrusjavadi@oregonlegislature.gov

RULEMAKING ADVISORY COMMITTEE

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