

October 31, 2018

Jesse Ellis O'Brien
Senior Policy Analyst
Oregon Department of Consumer & Business Services, Division of Financial Regulation
350 Winter St. NE, Salem, OR 9730

Sent via Email to: Jesse.E.Obrien@Oregon.gov

Dear Mr. O'Brien,

Thank you for holding the last Rules Advisory Committee (RAC) meeting on October 22nd. The purpose of this letter is to provide feedback in regard to the 2nd draft rule distributed to committee members Friday, October 19th and the new definition of "net yearly increase".

The current draft rule states the following on page 1;

(5) "Net yearly increase" means the increase in the wholesale acquisition cost of a drug over the course of a calendar year. For a drug on the market for the entire year, the net yearly increase is calculated by subtracting the wholesale acquisition cost on January 1 of the year from the wholesale acquisition cost on December 31 of the same year. For a new prescription drug introduced after January 1 of any year, the net yearly increase is calculated by subtracting the wholesale acquisition cost on the drug's introduction date from the wholesale acquisition cost on December 31 of the same year.

We understand the purpose of adding this definition is to help ensure all manufacturers use a uniform calculation for determining a drug price's annual increase. However, we are concerned manufacturers could avoid the intent of the law by reporting a comparison of the price of a drug on only two days of the year—the first day and the last day. Under the proposed definition, a manufacturer could increase the price of a drug on January 2nd by a large percentage and decrease it by nearly the same amount on December 30th and not trigger the reporting requirement, which is not consistent with the intent of the law. Further, HB 4005 requires a manufacturer to report if there was a net increase of 10% or more in the price of the prescription drug over the course of the previous calendar year. We believe "over the course" means throughout the calendar year and not just a comparison of the first and last day of the year. If the legislature intended to compare the price of the drug on only the first and last day, the language in HB 4005 would have reflected that.

It's our recommendation that the definition of "net yearly increase" be rewritten to reflect the average price increase, taking into account any decreases, over the course of the calendar year.

Kaiser Foundation Health Plan of the Northwest
July 6, 2006
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Sincerely,

Sadie Ellwood
Regulatory Services
Kaiser Foundation Health Plan of the Northwest