



Report to Agency on Proposed Bulletin

Date: 4/17/2025

To: Department of Consumer and Business Services

From: Brooke Hall, Senior Policy Advisor

Subject: Oregon Division of Financial Regulation Proposed Bulletin on:

Health benefit plan coverage of gender-affirming treatment under ORS 743A.325 and OAR 836-053-0441

Comment Period Start: January 9, 2025

Comment Period End: February 10, 2025

Background

On January 9th, 2025, the Division of Financial Regulation (DFR) published the draft bulletin concerning Gender-Affirming Treatment (GAT) coverage under Oregon statutes ORS 743A.325 and OAR 836-053-0441. The department provided stakeholders with the opportunity to comment on the proposed guidelines. Comments were received from Cambia Health Solutions, consumer advocate Paul Terdal, and four members of the public. Below is a summary of the feedback received.

Summary of Written Comments

Cambia Health Solutions

Cambia Health submitted feedback focusing on two main areas:

- **Network Adequacy:** Cambia requested clarification on expectations for carriers regarding the use of out-of-network providers. Specifically, Cambia expressed concerns about ensuring that enrollees contact their insurer before seeking out-of-network care, allowing carriers an opportunity to guide them toward in-network providers when possible. Cambia also suggested explicitly stating in the bulletin that current network adequacy rules remain effective until new rules are formally adopted.

- **Provider Training Timeline:** Cambia expressed concern about the enforcement timeline for provider training requirements, specifically requesting a delay in the implementation date for mandatory provider training.

Paul Terdal, Consumer Advocate

Paul Terdal raised several concerns regarding:

- **Classification of GAT as an Additional Required Benefit:** Mr. Terdal questioned whether GAT constitutes an additional required benefit under federal regulations.
- **Application of Medical Necessity Criteria:** Mr. Terdal sought clarity regarding how carriers' definitions of medical necessity align with statutory requirements and standards, particularly with respect to recommended services.
- **GAT for Minors:** Mr. Terdal requested broader clarity regarding the coverage requirements for gender-affirming treatment for minors.

In addition, four general comments were received from members of the public, expressing broader views related to gender-affirming treatment but not providing specific feedback relevant to the content of the bulletin.

Discussion

The department reviewed all comments received and engaged in internal discussions to thoroughly address stakeholder concerns.

1. **Network Adequacy:** The department acknowledges the importance of providing clear guidance regarding network adequacy. To address concerns about appropriately directing members toward in-network providers, language has been revised to clarify that carriers may implement utilization review processes to authorize out-of-network services. Utilization review enables carriers to assess the medical necessity and appropriateness of out-of-network care, ensuring members have adequate access to necessary services while encouraging utilization of available in-network providers.
2. Additionally, the department does not believe it is necessary to explicitly clarify that current network adequacy rules will remain in effect, as the existing rules already make this sufficiently clear.
3. **Provider Training Timeline:** Recognizing the concerns raised by Cambia Health, the department determined that a reasonable extension of the reviewing providers training completion deadline is necessary. Consequently, the deadline has been extended to September 1, 2025, with further flexibility if

training availability experiences unforeseen delays. The department anticipates that training will be available to providers no later than May 1, 2025.

4. GAT as a Required Benefit: Prior to HB 2002, [Bulletin 2016-1](#) established that gender dysphoria must be treated as a mental health condition, requiring coverage comparable to other mental health conditions and prohibiting discriminatory exclusions.
5. Application of Medical Necessity: Under ORS 743A.325 and OAR 836-053-0441, carriers are explicitly prohibited from denying or limiting coverage for gender-affirming treatment that is medically necessary as determined by the prescribing physical or behavioral health care provider and prescribed in accordance with accepted standards of care, including the World Professional Association for Transgender Health (WPATH) Standards of Care version 8 (SOC-8).
6. GAT for Minors: ORS 743A.325 and OAR 836-053-0441 require coverage for medically necessary gender-affirming treatment without specifying age restrictions. Coverage must be provided if determined medically necessary by a physical or behavioral health care provider and prescribed according to accepted standards of care.

Equity Impact

Issuance of this bulletin is expected to positively impact equity in Oregon by reducing barriers to medically necessary gender-affirming care for transgender and gender-diverse individuals. By prohibiting discriminatory practices and clarifying coverage requirements, the bulletin promotes equitable access to essential health services.

Summary

After fully considering the comments received, DFR staff proposes to issue the bulletin with the following modifications;

- Clarifying that carriers may use utilization review practices to authorize out-of-network services and guide members to in-network providers when available.
- Extending the deadline for completion of the training to September 1, 2025.

Brooke Hall, Senior Policy Advisor
Division of Financial Regulation