



Hearing Officer's Report to Agency on Rulemaking Hearing

Date: 11/10/2025

To: Department of Consumer and Business Services

From: Brooke Hall, Hearing Officer

Subject: Rulemaking Amending OAR 836-053-1420 (Behavioral Health Parity)

Hearing Date/Time: October 22, 2025

Hearing Location: Hybrid meeting conducted in-person at Labor and Industries Building and virtually on Microsoft Teams.

Comment Period End: November 12, 2025

Background

In 2021, the legislature enacted House Bill 3046 to strengthen enforcement of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), which requires parity between behavioral health and medical/surgical benefits. HB 3046 (2021) requires insurers to submit annual reports to the Department of Consumer and Business Services (DCBS) containing two main components: comparative analysis of non-quantitative treatment limitations (NQTLs) and extensive quantitative data.

The required quantitative data is comprehensive covering metrics such as, denials, appeals and outcomes, in-network vs. out-of-network payment percentages, and various reimbursement details, including; regional rates, telehealth reimbursement, and median maximum allowable amounts. However, these quantitative data-reporting requirements expired in 2025. As a result, carriers were no longer obligated to submit this data to DCBS, hindering the division's ability to assess parity.

Senate Bill 824, enacted in 2025, aims to close this gap by reinstating the expired quantitative data reporting framework. The bill requires carriers to submit annual reports that include:

- NQTL analyses with findings and conclusions;
- Metrics on denials, appeal, and appeal outcomes;
- In-network vs. out-of-network payment percentages;

- Median maximum allowable amounts for time-based office visits by provider type;
- Regional reimbursement as a share of Medicare for specific provider types;
- Telehealth reimbursement data;
- Any additional data the division deems necessary to assess parity compliance.

Finally, SB 824 (2025) clarifies that all submitted data is confidential and not subject to public disclosure, consistent with ORS 705.137.

The amended rule implements SB 824 by revising OAR 836-053-1430 to reinstate the quantitative reporting requirements, align reporting content and timing with the statute, and codify that submitted data is confidential consistent with ORS 705.137. Restoring this reporting framework aims to support effective oversight, enforcement of behavioral health parity, and equitable access to behavioral health services in Oregon.

Hearing

A public hearing to receive testimony was held on October 22, 2025 at 2:30 p.m. Notice for the hearing was published in the Oregon Bulletin on October 1, 2025. Public testimony was initially accepted until 5:00 p.m. on October 29, 2025, and the comment period was extended to 5:00 p.m. on November 12, 2025. Upon extending the comment period, the division provided notice consistent with ORS 183.335 to: (1) all persons on DCBS's rulemaking mailing list; (2) the legislators previously notified for this rulemaking; and (3) the persons identified in DCBS's notice rule. Brooke Hall served as the hearing officer, and Karen Winkel served as the rules coordinator.

Members of the public that were present at the hearing were:

- Jennifer Baker, Cigna Healthcare
- Michelle Baird, PacificSource Health Plans
- Merlene Converse, Kaiser Permanente
- Scott White, Moda Health
- Antoinette Awuakye, Cambia Health Plans
- Iris Maria Chavez, Professional Counselors and Therapists

One public comment was received at the hearing from Antoinette Awuakye, Cambia Health Solutions. Two written comments were received after the hearing; one was received during the extended comment period from Melissa Todd, Oregon Independent Mental Health Professionals (OIMHP), and one was received from Antoinette Awuakye.

Summary of Testimony

Oral testimony at the hearing

Antoinette Awuakye, Cambia Health Solutions stated that the rule text should be aligned with the reporting template and asked the division to restore "incurred claims" reporting to OAR 836-053-1430. She explained that DCBS has historically collected

incurred-claims data, that alignment between the rule and the template would promote consistent implementation, and that this would continue established practice. She also acknowledged that the division may request contracted-rate data in the future and asked that, if such requests become permanent, the rule and the template be updated at the same time to maintain alignment.

Written comments after the hearing

Antoinette Awuakye, Cambia Health Plans reiterated the request to reinstate incurred claims reporting in the rule. Cambia supported leaving contracted-rate reporting out of the rule at this time, emphasized the need for consistency between the rule and the reporting template, and noted that DCBS has previously collected incurred claims data, making reinstatement a logical continuation of prior practice. Cambia also asked that any future, ongoing collection of contracted-rate data be discussed with carriers in advance and, if made permanent, reflected in simultaneous updates to the rule and the template.

Melissa Todd, PhD, Oregon Independent Mental Health Professionals (OIMHP) supported adopting the proposed rule as written to restore the quantitative parity reporting framework and to codify confidentiality for submitted data. OIMHP explained that these quantitative indicators make non-quantitative treatment limitations measurable and that shining light on disparities has driven improvements in reimbursement and access without the need for enforcement actions. OIMHP opposed adding incurred claims reporting back into the rule because, in their view, it could narrow the division's ability to assess reimbursement-related NQTLs. If the division chooses to reinstate incurred claims reporting, OIMHP requested that the original language requiring reporting of provider contracted rates also be reinstated so the division maintains access to contract-level information. OIMHP further supported the rule's confidentiality provision as enabling fuller transparency with the division while protecting proprietary information.

Public Comment Discussion

After consideration of the comments, the division finds that the rule's focus should remain on establishing the annual reporting requirements and the overall compliance framework. Specific data elements, including incurred claims data, are more appropriately identified in the division's annual guidance. This structure keeps the rule itself consistent and clear, while providing the division with the flexibility to refine specific data elements, technical requirements, and file formats as data needs evolve.

The division will continue to collect incurred claims data, as well as other metrics not listed in the rule, through the annual guidance process. The majority of the Rulemaking Advisory Committee members supported this approach, agreeing that guidance, developed with carrier input, is the proper venue for specifying the precise data elements and templates each year. This method ensures transparency, promotes consistent implementation, and avoids the need to reopen the rule text for routine technical updates.

Recommendation

Having considered fully the testimony presented at the hearing and the written comments, I recommend that the division adopt the rule as proposed.

Brooke Hall
Hearing Officer
Division of Financial Regulation

This Summary and Recommendation are reviewed and adopted.

Signed this 5th day of December, 2025.



TK Keen, Administrator
Insurance Commissioner
Division of Financial Regulation