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CHAPTER 836
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE REGULATION

FILING CAPTION: 2025 Gender-Affirming Treatment Rule

EFFECTIVE DATE: 01/01/2025

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ADOPT: 836-053-0441

NOTICE FILED DATE: 10/30/2024

RULE SUMMARY: A carrier offering a health benefit plan may not deny or limit coverage under the plan, including, but not limited to denying or limiting coverage of a claim, issuing automatic denials of coverage or imposing additional cost sharing or other limitations or restrictions on coverage for gender-affirming treatment that is:
(a) Medically necessary, as determined by the physical or behavioral health care provider who prescribes the treatment; and
(b) Prescribed in accordance with accepted standards of care.

CHANGES TO RULE:

836-053-0441
Gender Affirming Treatment
(1) For purposes of this rule:¶
(a) "Gender-affirming treatment" has the meaning given to that term under ORS 743A.325; and¶
(b) "Accepted standards of care" includes, at a minimum, the World Professional Association for Transgender Health's Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 (WPATH-8).¶
(2) A carrier offering a health benefit plan may not deny or limit coverage under the plan including, but not limited to denying or limiting coverage of a claim, issuing automatic denials of coverage or imposing additional cost-sharing or other limitations or restrictions on coverage for gender-affirming treatment that is:¶
(a) Medically necessary, as determined by the physical or behavioral health care provider who prescribes the treatment; and¶
(b) Prescribed in accordance with accepted standards of care.¶
(3) Carriers may use utilization review practices to verify adherence to the accepted standards of care described in subsection (2)(b), provided that such practices are consistent with the requirements of this rule, OAR 836-053-1200, and all other applicable provisions of Oregon law. Utilization review practices shall be implemented in a manner that does not unreasonably limit or delay access to care.¶
(4) A carrier offering a health benefit plan may not:¶
(a) Apply a categorical cosmetic or blanket exclusion to medically necessary gender-affirming treatment; or¶
(b) Exclude, as a cosmetic service, a medically necessary procedure prescribed by a physical or behavioral health care provider as gender-affirming treatment, including but not limited to:¶

(A) Tracheal shave;¶
(B) Hair electrolysis;¶
(C) Facial feminization surgery or other facial gender-affirming treatment;¶
(D) Revisions to prior forms of gender-affirming treatment; or¶
(E) Any combination of gender-affirming treatment procedures.¶
(5) Prior to issuing an adverse benefit determination that denies or limits access to gender-affirming treatment, a carrier offering a health benefit plan must ensure that the adverse benefit determination is reviewed and approved in accordance with the following requirements:¶
(a) The adverse benefit determination is reviewed by a physical or behavioral health care provider with experience prescribing or delivering gender-affirming treatment.¶
(b) To demonstrate experience the reviewing provider must:¶
(A) Meet the criteria for external medical review found in OAR 836-053-1325(6)(b)(A-C);¶
(B) Have experience utilizing the WPATH-8; and¶
(C) Have completed the WPATH SOC-8 Health Plan Providers training program or an equivalent training program.¶
(c) This subsection (5) does not apply to an adverse benefit determination that only involves the application of cost-sharing, such as deductibles, coinsurance, or copays, to gender-affirming treatment.¶
(6) In the event of an adverse benefit determination that denies or limits coverage for gender-affirming treatment, the carrier must meet all the requirements in:¶
(a) ORS 743B.250, and if requested under ORS 743B.250(2)(h)(B), disclosure of the identity of the physical or behavioral health care provider who reviewed the determination, which at a minimum includes information to demonstrate experience prescribing or delivering gender-affirming treatment:¶
(A) The provider's job title and specific role in the review process; and¶
(B) The provider's specialty, board certification status, and any other relevant qualifications that affirm their experience in gender-affirming treatment.¶
(b) OAR 836-053-1030; and¶
(c) OAR 836-053-1100.¶
(7) Carriers offering health benefit plans shall:¶
(a) Satisfy any network adequacy standards under ORS 743B.505 related to gender-affirming treatment providers; and¶
(b)(A) Contract with a network of gender-affirming treatment providers that is sufficient in numbers and geographic locations to ensure that gender-affirming treatment services are accessible to all enrollees without unreasonable delay; or¶
(B) Ensure that all enrollees have geographical access without unreasonable delay to out-of-network gender-affirming treatment services with cost-sharing or other out-of-pocket costs for the services no greater than the cost-sharing or other out-of-pocket costs for the services when furnished by an in-network provider, and meet all the requirements in:¶
(i) OAR 836-053-1030;¶
(ii) OAR 836-053-1035; and¶
(iii) OAR 836-053-1408.
Statutory/Other Authority: ORS 731.244, ORS 743A.325
Statutes/Other Implemented: ORS 743A.325