DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

DIVISION 053
Health Benefit Plans

836-053-XXXX (Adopt)
Gender Affirming Treatment

(1) For purposes of this rule:

(a) "Gender-affirming treatment" has the meaning given to that term under Oregon Laws 2023, chapter 228, section 20; and

(b) "Accepted standards of care" includes, at a minimum and without limitation, the World Professional Association for Transgender Health's Standards of Care for Transgender and Gender Diverse People, Version 8, which is incorporated as Exhibit 1 to this rule.

(2) A carrier offering a health benefit plan may not deny or limit coverage under the plan, deny or limit coverage of a claim, issue automatic denials of coverage or impose 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) 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:

(i) tracheal shave;

(ii) hair electrolysis;

(iii) facial feminization surgery or other facial gender-affirming treatment;

(iv) revisions to prior forms of gender-affirming treatment; or

(v) any combination of gender-affirming treatment.

(3) Prior to issuing an adverse benefit determination that denies or limits access to gender-affirming treatment, a carrier offering a health benefit plan must have the adverse benefit determination reviewed and approved by a physical or behavioral health care provider with experience prescribing gender-affirming treatment. This subsection does not require a health care provider to review or approve an adverse benefit determination that only involves the application of cost sharing, such as deductibles, coinsurance, or copays, to gender-affirming treatment.

(4) A carrier offering a health benefit plan must:

(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 out-of-pocket costs for the services when furnished by an in-network provider.

Stat. Auth: ORS 731.244, Or Laws 2023, chapter 228
Stats. Implemented: Or Laws 2023, chapter 228