



Samaritan
Health Plans

April 5, 2024

Ms. Lisa Emerson, Senior Policy Analyst
Ms. Brooke Hall, Senior Policy Analyst
Department of Consumer and Business Services
Division of Financial Regulation
350 Winter St. NE, #410
Salem, Oregon 97309

Delivered via Email: Lisa.Emerson@dcbs.oregon.gov
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RE: Comments on Draft Rules Implementing House Bill 2002 (2023)

Dear Ms. Emerson and Ms. Hall:

Thank you for the opportunity to provide comments on the draft rules implementing House Bill 2022 (2023) which relate to gender-affirming treatment (GAT). Below are comments from Samaritan Health Plans (SHP) for your consideration.

OAR 836-053-XXXX (3): That proposed rules states:

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 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.

SHP supports the addition of OAR 836-053-XXXX (3) to the proposed rules. OAR 836-053-XXXX (2) states that an insurer cannot deny or limit coverage that is: 1) medically necessary as determined by the physical or behavioral health care provider, **and**; 2) prescribed in accordance with accepted standards of care. That section of the proposed rule appears to give a prescribing provider sole authority to make a coverage decision. An insurer should have the ability to review service requests in accord with its medical policies to ensure that the requested service, as prescribed, meets accepted standards of care. OAR 836-053-XXXX (3) makes it clear that insurers continue to have the ability to conduct utilization review practices for GAT service requests.

OAR 836-053-XXXX (5): That section of the proposed rule outlines the qualifications required for physical or behavioral health care providers to review adverse benefit determinations related to GAT. SHP has concerns related to the training requirement described in OAR 836-053-XXXX (5)(b)(iv). That subsection quite broadly

refers to completing training programs “focused on gender equality and inclusivity.” It is unclear what trainings would fall into that category and what standards would be applied to evaluate whether a training met the requirement. SHP believes that some additional clarity regarding the type of training and/or what elements a training must have to meet the requirement would be helpful. Further, SHP would ask that any considerations for training requirements be balanced against the fact that there is already a small pool of providers who would qualify to review adverse benefit determinations related to GAT. The more onerous the training requirements are and the heavier the time investment becomes, the less likely it is that providers would be willing to obtain the required training and, similarly, insurers will have less ability to review coverage determinations.

OAR 836-053-XXXX (6): This section requires insurers to make reasonable efforts to contract with an adequate number of GAT providers without “unreasonable delay.” SHP agrees with other RAC participants who have advocated for inclusion of a definition of “unreasonable delay.” Insurers need to understand what factors and/or standards would be applied to a review of whether that standard was met. That is especially critical for GAT providers given the low number of that specialty type in the state. SHP requests also that only in-state providers be considered in the evaluation of network adequacy standards. Lastly, SHP agrees with the comments of other RAC participants who have requested that a provision be added to require enrollees to contact their insurer prior to seeking out-of-state care so that the insurer may assist the enrollee in finding an in-network provider, if possible, or establishing a single case agreement with the out-of-state provider.

Thank you for your consideration of SHP’s comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rachel Arnold".

Rachel Arnold, JD, MPH
Senior Associate General Counsel
Samaritan Health Services

cc: Andi Easton, Government Affairs Director, Samaritan Health Services
Dr. Brent Godek, VP & Chief Medical Officer, Samaritan Health Plans
Dr. Maximilian Kaiser, Medical Director, Samaritan Health Plans