

# NOTICE OF PROPOSED RULEMAKING STATEMENT OF NEED AND FISCAL IMPACT

Filing caption: PCP Assignment (SB 1529)

**Public comment deadline: TBA**

**Effective Date: 1/1/2024**

## HEARING

**Date:** TBA

**Time:**

**Officer:**

**Location:** Labor & Industries Building  
350 Winter St. NE  
Basement, Conf Rm E  
Salem, OR 97301

This is a hybrid meeting conducted in-person and virtually via Microsoft TEAMS.

## NEED FOR RULE(S)

*Provide background on why the rule is needed, including a short summary of the rulemaking authority and statutes implemented. Provide a summary of what the rule does. Describe the involvement of the RAC, including the types of stakeholders that were invited to and did participate. Specify if any of the stakeholders were small businesses.*

SB 1529 (2022) requires DCBS to adopt rules prescribing a methodology for insurers offering individual or group health benefit plans to assign a primary care provider (PCP) to their enrollees if an enrollee does not choose a PCP within 90 days of joining the plan.

Rulemaking will establish a PCP assignment methodology that ensures accuracy and agreement between insurers and providers. The rules will align with a set of PCP assignment principles that are recommended by the Primary Care Payment Reform Collaborative (PCPRC). These rules will establish an assignment hierarchy, but allow insurers flexibility with the specific business processes of assignment.

The external rules advisory committee includes insurers, providers and consumer representatives.

## **DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

## **STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:**

*(Who is this going to impact and how might it impact one group of people differently than others?)*

A rules advisory committee was consulted regarding this equity statement. These rules are not anticipated to have any disparate impact on any particular demographic of consumers. Overall, the rules will improve consumer protection for all health insurance consumers.

## **FISCAL AND ECONOMIC IMPACT:**

*Based on information available to DCBS, briefly discuss the cost of compliance for businesses, generally. State whether there are compliance costs for small businesses (independently owned and operated with fewer than 50 employees).*

Insurers are already engaged in the practice of assigning primary care providers (PCP) to members that do not choose their own PCP, but may experience increased administrative costs with having to contact members that may be challenging to communicate with about the requirement to choose a PCP. A positive impact may be experienced by PCPs that meet the definition of small business. The PCP assignment requirement may increase patient panels for these PCPs and their organizations, thus increase opportunity for insurance reimbursements in the form of fee-for-service payments or alternative payment model reimbursements e.g. value-based payment contracts.

Based on financial filings and other information available to the DFR, the department does not believe that any health insurer affected by these rule would meet the definition of a small business under ORS 183.310.

## **COST OF COMPLIANCE FOR SMALL BUSINESSES**

### **(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.**

The proposed rule does not have a financial impact on state agencies, local governments or the general public. There may be economic advantage to limited members of the public generally.

A positive impact may be experienced by PCPs that are small businesses. The PCP assignment requirement may increase patient panels for PCPs, thus increase opportunity for reimbursements in the form of fee-for-service or alternative payment model reimbursements e.g. value-based payment contracts.

Based on financial filings and other information available to the DFR, the department does not believe that any health insurer affected by these rule would meet the definition of a small business under ORS 183.310.

### **(2)(a) Estimate the number and type of small businesses subject to the rule(s).**

Based on financial filings made to the DFR, no health insurers meet the definition of a small business under ORS 183.310, because no health insurer is independently owned and operated.

### **(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).**

Based on financial filings made to the DFR, no health insurers meet the definition of a small business under ORS 183.310, because no health insurer is independently owned and operated. Based on financial filings and other information available to DFR, the department does not believe that any health insurer affected by these rules would meet the definition of a small business under ORS 183.310.

### **(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).**

Any costs of equipment, supplies, labor and increased administration associated with these rules would primarily affect health insurers and is estimated to have minimal added cost for compliance. Based on information available to the DFR, the department believes adoption of this rule amendment will have minimal impact for health insurers.

Based on financial filings and other information available to DFR, the department does not believe that any health insurer affected by these rules would meet the definition of a small business under ORS 183.310.

**How were small businesses involved in the development of the rule?**

The RAC membership included primary care provider association representatives and an individual primary care provider.

**Was an administrative rule advisory committee consulted? Yes.**

**Did membership of the RAC represent the interests of persons and communities likely to be affected by the rule? Yes.**

*Specify the interested communities (BIPOC, professions, occupations, geographic location, recreational interests, aging/older adults, individuals w/disabilities, LGBTQ+, religion, veterans.*

Yes, the RAC represented the interest of those most likely affected by this rule –health insurers, primary care providers and consumers, generally.

**RULE NUMBER AND SUMMARY**

*List each rule number and a short summary of what the rule does.*

AMEND:

RULE SUMMARY:

ADOPT: 836-053-0028

RULE SUMMARY: Primary Care Provider Assignment Methodology

Insurers must assign enrollees who are residents of the state of Oregon to an individual or group of individuals who are “primary care providers” in the following hierarchal order:

- (a) According to the enrollee’s selection. In order to prioritize enrollee choice of a primary care provider, Insurers must make all reasonable efforts to communicate with enrollees to complete an initial primary care provider assignment.
- (b) If the enrollee does not choose a primary care provider, insurers must assign - the enrollee to a primary care provider based upon claim utilization information.
- (c) If the enrollee chooses a primary care provider, but has predominant claim utilization with a different primary care provider, the insurer may communicate with the enrollee the opportunity to select the primary care provider with predominant claim utilization.
- (d) If the insurer has no information pertinent to enrollee choice or prior utilization, the insurer must assign the enrollee to a primary care provider using the insurer’s assignment methodology that enables the enrollee the best opportunity to access primary care services without unreasonable delay.

**STATUTORY REFERENCE**

**STATUTORY/OTHER AUTHORITY:** ORS 731.244, Chapter 37, 2022 Laws

**STATUTES/OTHER IMPLEMENTED:**

Andrew R. Stolfi, Insurance Commissioner

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Signature	Printed name	Date
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**LEGISLATOR NOTICE**

*If the rulemaking results from legislation passed within two years of this notice of proposed rulemaking, the agency must give notice to: 1) the legislator(s) who introduced the bill; and 2) the chair or co-chairs of all committees that reported the bill out. (Does not include referrals to other committees).*

*If the rule does not result from legislation within the last two years, notice shall be given to the chair or co-chairs of any interim or session committee with authority over the subject matter of the rule. If notice cannot be given to these individuals, notice shall be given to the Speaker of the House and the President of the Senate.*

<b>Name</b>	<b>Committee or Title</b>	<b>Email</b>
Sen. Deb Patterson	Chair, Senate Health Care	Sen.DebPatterson@oregonlegislature.gov
Sen. Cedric Hayden	Vice-Chair, Senate Health Care	Sen.CedricHayden@oregonlegislature.gov
Rep. Rob Nosse	Chair, House Behavioral Health and Health Care	Rep.RobNosse@oregonlegislature.gov
Rep. Christine Goodwin	Vice-Chair, House Behavioral Health and Health Care	Rep.ChristineGoodwin@oregonlegislature.gov
Rep. Travis Nelson	Vice-Chair, House Behavioral Health and Health Care	Rep.TravisNelson@oregonlegislature.gov

#### **RULEMAKING ADVISORY COMMITTEE**

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