

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Human Services, Public Health

333

Agency and Division

Administrative Rules Chapter Number

In the Matter of:

The amendment of Oregon Administrative Rules (OAR) 333-018-0015 and 333-019-0031 as they relate to HIV reporting.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Amends rules related to HIV reporting.

Statutory Authority: ORS 431, ORS 432 and ORS 433

Other Authority:

Stats. Implemented: ORS 431, ORS 432 and ORS 433

Need for the Rule(s):

Since October 2001, Oregon has mandated reporting of HIV Infection under OAR 333-019-0031 by laboratories and health care providers "within one day from the time of identification." OAR 333-019-0031 has further stipulated that within 90 days after receipt of a report, the Department of Human Services (DHS) shall create an encrypted unique alphanumeric code for each case from the patient's name, or the necessary letters of the name, and other information contained on the case report and substitute this code for the patient's name on all case-related reporting information retained by DHS and Local Public Health Authorities.

Because of concerns about the possibility of double counting HIV cases reported in states that use a coded system, the Centers for Disease Control and Prevention (CDC) does not include HIV case counts from Oregon or other states with coded HIV reporting systems in national counts of persons with HIV. In addition, the federal Health Resources Services Administration (HRSA) has indicated that beginning in October 2006, Ryan White Care Act funding will be distributed among states based on CDC's data for reported persons living with HIV and AIDS. Because CDC does not include Oregon's HIV cases, Oregon stands to lose approximately 40% of the federal funding currently being received in Ryan White Care Act funding to provide access to HIV care and medications.

DHS is proposing changes to OAR 333-019-0031 that will allow state public health to retain the names of persons reported with HIV. This amendment will make HIV reporting consistent with all other reportable communicable diseases. In addition to retaining Oregon's fair share of federal funds, this amendment is being proposed because: 1) encoding of identifying data within a 90 day window prevents case report data from being appropriately updated; 2) data quality (missing data about mode of transmission, availability of care and current morbidity) has declined with the implementation of encoding HIV case data; and 3) encoding of identifying data prevents efficient use of case report data to direct public health treatment and prevention activities.

Amendments to OAR 333-018-0015 are also being proposed. Presently, this rule directs health care providers to report cases of HIV infection, including those who have not yet progressed to AIDS, to public health authorities. Laboratories must report all tests "indicative of and specific for HIV and AIDS." In addition, laboratories are specifically mandated to report to public health results of tests of HIV viral nucleic acid ("viral load") when detectable, and CD4+ lymphocytes when the count is less than 200 cells/ml<sup>3</sup> or 14% of total lymphocytes. The proposed amendment to OAR 333-018-0015 will require laboratories to report

results of all CD4+ lymphocyte tests and viral load tests, not just those that are detectable or less than a specific level.

Documents Relied Upon, and where they are available:

1. Fact Sheet: Ryan White CARE Act Reauthorization Principles. Health Resources Services Administration. July 27, 2005. Available at <http://www.hhs.gov/news/press/2005pres/ryanwhite.html>. Accessed Feb. 1, 2006.
2. Dear Colleague Letter from Dr. Julie Gerberding, Director the CDC: Recommendation that All States and Territories Adopt Confidential Name-Based Surveillance Systems to Report HIV Infections. July 5, 2005. Available at [http://www.cdc.gov/hiv/PUBS/070505\\_dearcolleague\\_gerberding.pdf](http://www.cdc.gov/hiv/PUBS/070505_dearcolleague_gerberding.pdf). Accessed Feb. 1, 2006.
3. Koplan JP. Birkhead G. Improved Laboratory Surveillance for HIV. CSTE Position Statement. Council of State and Territorial Epidemiologists. 2001. Available at <http://www.cste.org/ps/2001/2001-id-03.htm>. Accessed Feb. 1, 2006.
4. MacDonald K. National HIV Surveillance: Addition to the National Public Health Surveillance System. CSTE Position Statement. Council of State and Territorial Epidemiologists. 1997. Available at <http://www.cste.org/ps/1997/1997-id-04.htm>. Accessed Feb. 1, 2006.

Fiscal and Economic Impact, including Statement of Cost of Compliance:

Fiscal impact of proposed changes on state or local government fiscal is likely to be neutral. All HIV case reporting and investigation in Oregon is funded by federal grants from Centers for Disease Control and Prevention. Case reporting and investigation will be less complex due to the omission of the requirement for encoding names after 90 days, likely resulting in a small savings for the state HIV Program. This will likely be offset by increases in workload created by increased volume of tests reported with the added requirement to report all tests of immune status and virus level. Laboratories will experience an increased reporting burden as a result of the same change. No financial impact is foreseen for the general public or for any small businesses.

If proposed changes are not implemented, the Oregon State Public Health HIV Client Services Program, and the Ryan White Eligible Metropolitan area (Multnomah, Clackamas, Washington, Yakima, Columbia Counties) will likely experience a 30%–40% reduction (\$3–\$4 million/*annum*) in federal funding for HIV treatment. Consequently, 300–400 persons with HIV would lose access to health insurance and drug subsidies; these individuals might forego care, leading to more expensive care for more advanced disease. More of these costs for uninsured care would be born by health care facilities in Oregon. No significant financial impact would accrue to the HIV Data and Analysis program as the case reporting and investigation process would be unchanged.

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

Because there is not any impact on small businesses, they were not involved in the development of this rule.

Administrative Rule Advisory Committee consulted?:

Conference of Local Health Officials, Statewide HIV Planning Group and Oregon HIV Care Coalition.

Christina Hartman

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Authorized Signer

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Printed name

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Date