

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs (Division)	410	
Agency and Division	Administrative Rules Chapter Number	
Sandy Cafourek	500 Summer St Ne, Salem, OR 97301	503-945-6430
Rules Coordinator	Address	Telephone

RULE CAPTION

Update and Align OHP Member Education/Information Rules Affecting Members and Potential Members			
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.			
February 17, 2015	10:30 am	500 Summer St NE, Salem, OR 97301, Room 166	Sandy Cafourek
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: OARs 410-141-0280, 410-141-0300, 410-141-3280, 410-141-3300

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth. : ORS 413.042, 414.615, 414.625, 414.635 and 414.651

Other Auth.:

Stats. Implemented: ORS 414.725, 414.610 – 414.685

RULE SUMMARY

These rules provide the regulated framework for OHP informational materials and education for OHP members and potential members. The related rules pertaining to "marketing" have been recently revised, having direct impact on the Member Education/Information Requirement rules. In the marketing rules, a clear distinction between rules pertaining to members versus potential members was made. This distinction needs to be carried through the Member Education/Information Requirement rules for clarity and symmetry. Additionally, we will update the current alignment with CFRs 438.10, 438.100 and 438.104 as they relate to each of these rules. There is a set for managed care organizations and one for coordinated care organizations for each of these rules.

The Authority requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

February 19, 2015 by 5 p.m. Send comments to dmap.rules@state.or.us.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	<u>David Summitt</u>	<u>12/19/2014</u>
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

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

Oregon Health Authority, Division of Medical Assistance Programs

410

Agency and Division

Administrative Rules Chapter Number

Update and Align OHP Member Education/Information Rules Affecting Members and Potential Members

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

In the Matter of: OARs 410-141-0280, 410-141-0300, 410-141-3280, 410-141-3300

Statutory Authority: ORS 413.042, 414.615, 414.625, 414.635 and 414.651

Other Authority:

Stats. Implemented: ORS 414.725, 414.610 – 414.685

Need for the Rule(s): The related rules pertaining to "marketing" have been recently revised, having direct impact on the Member Education/Information Requirement rules. In the marketing rules, a clear distinction between rules pertaining to members versus potential members was made. This distinction needs to be carried through to the Member Education/Information Requirement rules for clarity and symmetry. Additionally, we will update the current alignment with CFRs 438.10, 438.100 and 438.104 as they relate to each of these rules. There is a set of each rule for managed care organizations and coordinated care organizations.

Documents Relied Upon, and where they are available: Code of Federal Regulations, Oregon Administrative Rules as referenced above.

Fiscal and Economic Impact: We do not anticipate additional fiscal impact.

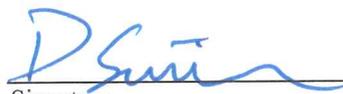
Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Division does not anticipate fiscal impacts on other state agencies, units of local government or the public.
2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The Division does not anticipate fiscal impacts on small businesses and types of business and industries with small businesses.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: There is no way to project that cost. It would vary widely by OHP contractor, depending on how the contractor chose to comply with the regulated requirement. This requirement does not have a direct impact on small business.
 - c. Equipment, supplies, labor and increased administration required for compliance: It would vary widely by OHP contractor, depending on how the contractor chose to comply with the regulated requirement. Small business could be engaged in the physical creation, printing, and distribution of the required member informational materials.

How were small businesses involved in the development of this rule? Small businesses were invited to participate in the RAC.

Administrative Rule Advisory Committee consulted? Yes, 8/5/14 and 10/20/14..

If not, why?:



Signature

DAVID S. SMITH

Printed name

12/19/2014

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

410-141-0280

~~Managed Care Prepaid Health Plan Potential Member Informational Requirements~~

~~(3) Managed Care Organizations (MCOs) shall develop informational materials for potential Division of Medical Assistance Programs (Division) members:~~

~~(a) MCOs shall provide the Division and/or Addictions and Mental Health Division (AMH) with informational materials sufficient for the potential Division member to make an informed decision about provider selection and enrollment. Information on participating providers must be made available from the MCO, upon request to potential Division members, and must include participating providers' name, location, languages spoken other than English, qualification and the availability of the PCP, clinic and specialists, including whether they are currently accepting members, and prescription drug formularies used. Informational materials may be included in the application packet for potential Division members;~~

~~(b) MCOs shall ensure that all MCOs staff who have contact with potential Division members are fully informed of MCO and the Division and/or AMH policies, including enrollment, disenrollment, complaint and grievance policies and the provision of interpreter services including which participating providers' offices have bilingual capacity;~~

~~(c) MCOs shall cooperate and provide accurate information to the Division for the updating of the comparison charts.~~

~~(d) Information for potential members will comply with marketing prohibitions in 42 CFR 438.104.~~

~~(2) Informational materials that MCOs develop for potential Division members shall meet the language requirements of, and be culturally sensitive to people with disabilities or reading limitations, including substantial populations whose primary language is not English in its particular service area(s).~~

~~(a) MCOs shall be required to follow the Division substantial household criteria required by ORS 411.970, which determines and identifies those populations that are considered non-English speaking households. The MCO shall be required to provide informational materials, which at a minimum, shall include the Division member handbook in the primary language of each substantial population. Alternative forms may include, but are not limited to audio tapes, close captioned videos, large type and Braille;~~

~~(c) All written informational materials distributed to potential Division members shall be written at the sixth grade reading level and printed in 12 point font or larger;~~

Managed Care Prepaid Health Plan Potential Member Informational Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific MCO or CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1,000 of the MCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-0270, Prepaid Health Plan Marketing Requirements for Potential Members.

(3) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(4) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for an MCO by subcontractors shall not indicate or express exclusivity to an MCO if the subcontractor is also participating with other MCO's.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) MCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) MCOs shall develop informational materials for potential members.

(8) MCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The MCO shall make available to potential members, upon request, information on participating providers.

(9) MCO provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients. An MCO or the Division may include informational materials in the application packet for potential members.

(10) MCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in (1) (a) and (c) of this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) MCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include, but are not limited to, braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate format materials for potential members and using a 12-point font or larger (18 point);

(b) MCOs shall ensure that all MCO staff who have contact with potential members are fully informed of MCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, and the availability of free certified

interpreter services, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.725

410-141-0300

Managed Care Member Education Requirements

~~A Managed Care Organization (MCO) plan member, also known as Division member (member), pertains to Division of Medical Assistance Programs' (Division) clients enrolled in a Managed Care Organization (MCO).~~

~~(1) MCOs shall have written procedures, criteria and an ongoing process of member education and information sharing that include orientation to the MCO, a member handbook and health education.~~

~~(2) MCOs shall mail a new member packet to new members, and to members returning to the plan 9 months or more after previous enrollment, within 14 calendar days of the date the plan receives notice of the member's enrollment, including at a minimum a member handbook, provider directory and welcome letter.~~

~~(3) MCO member handbook:~~

~~(a) For members who are ongoing enrollees, the MCO member handbook and provider directory shall be offered annually and sent on request. Whenever they are offered they shall be offered in print, and may also be offered online if available~~

~~(b) Each version of the printed MCO member handbook and provider directory shall be submitted electronically to the Division of Medical Assistance Programs' (Division) Materials Coordinator and Addictions and Mental Health (AMH) Division Representative for approval. At a minimum the MCO member handbook shall contain the following elements: (A) Revision date;~~

~~(B) Tag lines in English and other languages spoken by substantial populations of MCO members. Substantial is defined as 35 or more households that speak the same language and in which no adult speaks English. The tag lines must describe how members are to access interpreter services including sign interpreters, translations, and materials in other formats;~~

~~(C) MCO's office location, mailing address, web address if applicable, office hours and telephone numbers (including TTY);~~

~~(D) How to choose a Primary Care Provider (PCP) or Primary Care Dentist (PCD) and make an appointment, and policy on changing PCPs or PCDs;~~

~~(E) How to access information on contracted providers currently accepting new members (which may be through an online provider directory), and any restrictions on the member's freedom of choice among participating providers;~~

~~(F) What services can be self-referred to either participating or non-participating providers (Fully Capitated Health Plans (FCHP), PCOs and Mental Health Organizations (MHO) only);~~

~~(G) Policies on referrals for specialty care, including preauthorization requirements and how to request a referral;~~

~~(H) Explanation of Exceptional Needs Care Coordination (ENCC) and how members with special health care needs, who are aged, blind or disabled, or who have complex medical needs, can access ENCC services (FCHPs and PCOs);~~

~~(I) How and where members are to access urgent care services and advice, including when away from home;~~

~~(J) How and when members are to use emergency services both locally and when away from home, including examples of emergencies;~~

~~(K) Information on contracted hospitals in the member's service area;~~

~~(L) Information on post-stabilization care after a member is stabilized in order to maintain, improve or resolve the member's condition;~~

~~(M) Member appeal rights, including information on the MCO's complaint process and information on the Division's fair hearing procedures;~~

~~(N) Information on the member's rights and responsibilities;~~

~~(O) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of MCO for non-emergent care;~~

~~(P) The transitional procedures for new members to obtain prescriptions, supplies and other necessary items and services in the first month of enrollment with the MCO if they are unable to meet with a PCP/PCD, other prescribing practitioner, or obtain new orders during that period;~~

~~(Q) (FCHPs, PCOs and MHOs only) Information on advance directive policies including:~~

~~(i) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment, and the right to formulate advance directives;~~

~~(ii) The contractor's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;~~

~~(R) Whether or not the MCO uses physician incentives to reduce cost by limiting services;~~

~~(S) The member's right to request and obtain copies of their clinical records (and whether they may be charged a reasonable copying fee), and to request that the record be amended or corrected;~~

~~(T) How and when members are to obtain ambulance services (FCHP, MHO and PCO only); (U) Possible resources for help with transportation to appointments with providers;~~

~~(V) Explanation of the covered and non-covered services in sufficient detail to ensure that members understand the benefits to which they are entitled;~~

~~(W) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;~~

~~(X) MCO's confidentiality policy;~~

~~(Y) How and where members are to access any benefits that are available under the Oregon Health Plan (OHP) but are not covered under the MCO's' contract, including any cost sharing;~~

~~(Z) When and how members can voluntarily and involuntarily disenroll from OHP managed care and change MCOs.~~

~~(c) The MCO shall compile a printed provider directory for distribution to members, which may be part of their member handbook or separate, and shall include currently contracted provider names and specialty, non-English languages spoken, office location, telephone numbers including TTY, office hours, and accessibility for members with disabilities;~~

~~(d) If the MCO handbook is returned with a new address, the MCO shall re-mail the handbook to the new address;~~

~~(e) MCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information as needed to reflect OHP program~~

changes and the MCO's internal changes. If changes impact the member's ability to use services or benefits, the updated member handbook shall be offered to all members;

(f) The "Oregon Health Plan Client Handbook" is in addition to the MCO's member handbook and cannot be used to substitute for any component of the MCO's member handbook.

(4) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. Health education may be provided by MCO's practitioners or other individuals or programs approved by the MCO. MCOs shall endeavor to provide health education in a culturally sensitive manner in order to communicate most effectively with individuals from non-dominant cultures.

(b) MCOs shall ensure development and maintenance of an individualized health educational plan for members who have been identified by their practitioner as requiring specific educational intervention. The Oregon Health Authority (Authority) may assist in developing materials that address specifically identified health education problems to the population in need.

(c) Explanation of Exceptional Needs Care Coordination (ENCC) and how to access ENCC, through outreach to members with special health care needs, who are aged, blind or disabled, or who have complex medical needs;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access Emergency Services and Urgent Care Services appropriately;

(e) MCOs shall provide written notice to affected members of any significant changes in program or service sites that impact the members' ability to access care or services from MCO's participating providers. Such notice shall be provided at least 30 calendar days prior to the effective date of that change, or as soon as possible if the participating provider(s) has not given the MCO sufficient notification to meet the 30 days notice requirement. The Division or AMH will review and approve such materials within two working days.

(5) Informational materials that MCOs develop for members shall meet the language requirements of, and be culturally sensitive to, members with disabilities or reading limitations, including substantial populations whose primary language is not English;

(a) MCOs shall be required to translate materials for substantial populations of non-English speaking members in the MCO's caseload. Substantial is defined as follows: 35 or more households that speak the same non-English language and in which no adult speaks English. The MCO shall be required to provide informational materials which at

~~a minimum shall include the member handbook in the primary language of each substantial population. Alternative forms may include, but are not limited to audio recordings, close captioned videos, large type and Braille;~~

~~(b) Form correspondence sent to members, including but not limited to, enrollment information, choice and member counseling letters and notices of action to deny, reduce or stop a benefit shall include instructions in the language of each substantial population of non-English speaking members on how to receive an oral or written translation of the material;~~

~~(c) All written informational materials and identification (ID) cards distributed to members shall be written at the sixth grade reading level and printed in 12 point font or larger;~~

~~(6) MCOs shall provide an ID card to members, unless waived by the Division or AMH, which contains simple, readable and usable information on how to access care in an urgent or emergency situation. Such ID cards shall confer no rights to services or other benefits under the OHP and are solely for the convenience of the PHP, members and providers. [Publications: Publications referenced are available from the agency.]~~

410-141-0300

RULE REWRITTEN

Managed Care Organization (MCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to a person with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: Braille, large (18 point) print, audio narration, -oral presentation, and electronic file, along with other aids and services for other disabilities, including sign language interpretation and -sighted guide;

(b) "Alternate Format Statement Insert" means an insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's top sixteen preferred written languages identified by OHP enrollees. MCOs shall insert their contact information into the template;

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness;

(d) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1, 000 of the MCO's members;

(2) MCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the MCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining managed care services at service area sites or benefits.

(3) MCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications shall be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health-related events. MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(5) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for an MCO by subcontractors shall not indicate or express exclusivity to an MCO if the subcontractor is also participating with other MCO's.

(6) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(7) MCOs shall have a mechanism to help members understand the requirements and benefits of the MCO plan. The mechanisms developed shall be culturally and linguistically appropriate.

(8) MCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. Member education shall:

(a) Include information about the Exceptional Needs Care Coordination (ENCC) or case management services to members who are aged, blind, disabled, or have complex medical needs consistent with OAR 410-141-0405 and how to access that system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that certified health care interpreter services at provider offices are free to MCO members as stated in 42 CFR 438.10 (4).

(9) Within 14 calendar days of an MCO receiving notice of a member's enrollment, MCOs shall mail a welcome packet to new members and to members returning to the MCO twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory.

(10) Provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients.

(11) For those who are existing members, an MCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. MCOs shall send hard copies upon request.

(12) MCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the MCO:

(A) Welcome packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Include alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the MCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services.

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large (18 point) type, and braille.

(13) An MCO shall electronically provide to the Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in (1) (d) of this rule, spoken by populations of members. The tag lines shall be located at the beginning of the document for the ease of the member and describe how members may access free sign and oral interpreters, as well as translations and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille;

(c) MCO's office location, mailing address, web address if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team with the member as a partner in care management. Explain how to choose a PCP, how to make an appointment, and the MCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

(g) Policies on referrals for specialty care, including prior authorization requirements and how to request a referral;

(h) Explanation of Exceptional Needs Care Coordination (ENCC) services and how members with special health care needs who are aged, blind, or disabled, or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency can access ENCC services;

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(j) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(k) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(l) Information on contracted hospitals in the member's service area;

(m) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(n) Information on the MCO's grievance and appeals processes and the Division's contested case hearing procedures, including;

(A) Information about assistance in filling out forms and completing the grievance process available from the MCO to the member as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-326;

(o) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(p) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the MCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(q) Information about when providers may bill clients for services and what to do if they receive a bill; including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(r) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(s) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

(B) The MCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(t) Whether or not the MCO uses provider incentives to reduce cost by limiting services;

(u) The member's right to request and obtain copies of their clinical records, whether they may be charged a reasonable copying fee and that they may request the record be amended or corrected;

(v) How and when members are to obtain ambulance services;

(w) Resources for help with transportation to appointments with providers;

(x) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(y) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(z) The MCO's confidentiality policy;

(aa) How and where members are to access any benefits that are available under OHP but are not covered under the MCO's contract, including any cost sharing;

(bb) When and how members can voluntarily and involuntarily disenroll from MCOs and change MCOs;

(cc) MCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and

the MCO's internal changes. If changes affect the member's ability to use services or benefits, the MCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the MCO's member handbook, and an MCO shall not use it to substitute for any component of the MCO's member handbook.

(14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. MCO providers or other individuals or programs approved by the MCO may provide health education. MCOs shall endeavor to provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) MCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of ENCC services and how to access ENCC services through outreach to members with special health care needs who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) MCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from MCO's participating providers. The MCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the MCO sufficient notification to meet the 30-day notice requirement. The Division shall review and approve the materials within two working days.

(15) Informational materials that MCOs develop for members shall meet the language requirements identified in this rule and be culturally and linguistically sensitive to members with disabilities or reading limitations, including members whose primary language is not English:

(a) MCOs shall provide free certified health care interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also

applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care;

(b) MCOs shall translate materials into all languages as identified in (1) (d) of this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. MCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(c) MCOs shall provide written translations of informational materials including their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in (1) (d) of this rule and as identified by members either through the OHP application or other means as their preferred written language;

(d) Form correspondence sent to members including but not limited to enrollment information, choice and member counseling letters, and notices of action to deny, reduce, or stop a benefit shall be sent in the member's preferred written language. If sent in English to members who prefer a different language, the letters shall include tag lines in English and in other prevalent non-English languages as specified in (1) (d) of this rule. The tag lines placed at the beginning of the document shall have instructions on how to receive an oral or written translation of the material.

(16) MCOs shall provide an identification card to members, unless waived by the Division, that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the MCO, members, and providers.

Stat. Auth.: ORS 413.04

Stats. Implemented: ORS 414.725

410-141-3280

Potential Member Information Requirements

~~(1) CCOs shall develop informational materials for potential members:~~

~~(a) CCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. Upon request, the CCO must make available to potential members information on participating providers. The information must include participating providers' name, location, languages spoken other than English, qualification and the availability of the PCPs, clinic and specialists, prescription drug formularies used and whether they are currently~~

accepting members. A CCO or the Authority may include informational materials in the application packet for potential members;

~~(b) CCOs shall ensure that all CCO staff who have contact with potential members are fully informed of the CCO's and the Authority's rules applicable to enrollment, disenrollment, complaint and grievance policies and interpreter services, including which participating providers' offices have bilingual capacity;~~

~~(c) Information for potential members must comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-3270.~~

~~(2) Informational materials that CCOs develop for potential members in its service area shall meet the language requirements of, and be culturally sensitive to, people with disabilities or reading limitations, including substantial populations whose primary language is not English:~~

~~(a) CCOs shall follow the Authority's household criteria required by ORS 411.970, which determines and identifies those populations considered to be non-English speaking households. The CCO shall provide informational materials, which at a minimum, shall include the member handbook in the primary language of each substantial population. Alternate formats shall be provided and may include but are not limited to audio tapes, close captioned videos, large type, and Braille;~~

~~(b) CCOs shall write all written informational materials for potential members at the sixth grade reading level, using plain language standards, and printed in 12 point font or larger.~~

410-141-3280

RULE REWRITTEN

Coordinated Care Organization (CCO) Potential Member Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1,000 of the CCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-3270; Oregon Health Plan Marketing Requirements.

(3) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(4) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for a CCO by subcontractors shall not indicate or express exclusivity to a CCO if the subcontractor is also participating with other CCO's.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align CCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) CCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) CCOs shall develop informational materials for potential members.

(8) CCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The CCO

shall make available to potential members, upon request, information on participating providers.

(9) CCO provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients. A CCO or the Division may include informational materials in the application packet for potential members.

(10) CCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in (1) (a) and (c) of this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) CCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include but are not limited to braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) CCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate format materials for potential members and using a 12-point font or larger (18 point);

(b) CCOs shall ensure that all CCO staff who have contact with potential members are fully informed of CCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, and the availability of free certified health care interpreters, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 414.685

410-141-3300

Coordinated Care Organization (CCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the

standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Alternate Format Statement Insert" means aAn insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's top sixteen preferred written languages as identified by OHP enrollees. CCOs shall insert their contact information into the template.

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(d) "Prevalent Non-English Language" means: All non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1, 000 of the CCO's members.

(2) CCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the CCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining coordinated care services at service area sites or benefits.

(3) CCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications should be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health-related events. CCOs shall address health literacy issues by preparing these documents at a low-literacy reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(5) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for a CCO by subcontractors

shall not indicate or express exclusivity to a CCO if the subcontractor is also participating with other CCO's.

(6) The following shall not constitute marketing or an attempt by the CCO to influence client enrollment:

(a) Communication to notify dual-eligible members of opportunities to align CCO provided benefits with a Medicare Advantage or Special Needs Plan;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(17) CCOs shall have a mechanism to help members and potential members understand the requirements and benefits of the CCO's integrated and coordinated care plan. The mechanisms developed shall be culturally and linguistically appropriate.

(28) CCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. As a CCO transitions to fully coordinating a member's care, the CCO is responsible only for including information about the care they are coordinating. CCOs shall update their educational material as they add coordinated services. Member education must shall:

(a) Include information about the coordinated care approach, and how to navigate the coordinated health care system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that interpreter services at provider offices are free to CCO members as stated in 42 CFR 438.10 (4).

(39) Within 14 calendar days of a CCO's receiving notice of a member's enrollment, CCOs shall mail an educational-welcome packet to new members and to members returning to the CCO nine-twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory, provider directory and welcome letter.

(410) For members who are ongoing enrollees, a CCO shall offer the member handbook and provider directory annually and send on request. The CCO shall offer these in print and online if available. Provider directories shall include notation of the

following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients.

(11) For those who are existing members, a CCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. CCOs shall send hard copies upon request.

(12) CCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the CCO:

(A) Welcome Packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the CCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services;

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large type, and braille.

(513) A CCO shall electronically provide to the Authority Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in (1) (d) of this rule, spoken by substantial populations of members. Substantial means 35 or more households that speak the same language and in which no adult speaks English. The tag lines must shall be located at the beginning of the document for the ease of the member and describe how members may access interpreter services, including free sign and oral interpreters, as well as translations, and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille.

(c) CCO's office location, mailing address, Web address, if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team, with the member as a partner in care management. Explain, how to choose a PCP, how to make an appointment, and how to change PCPs and the CCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members, and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

What services the member may self-refer to either participating or non-participating providers;

(g) Policies on referrals for specialty care, including pre-prior authorization requirements and how to request a referral;

(h) Explanation of intensive care coordination services (formerly known as Exceptional Needs Care Coordination (ENCC)) and how members with the following special health care needs can access intensive care coordination services: Those who are aged, blind, or disabled, or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency. can access intensive care coordination services;

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(ii) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(jk) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(kl) Information on contracted hospitals in the member's service area;

(lm) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(mn) Information on the CCO's grievance and appeals processes, and the Authority's Division's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the CCO to the member, as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3263;

(no) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(op) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the CCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(pg) Information about when providers may bill clients for services, and what to do if they receive a bill, including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(qr) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(rs) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment, and the right to formulate advance directives;

(B) The CCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(st) Whether or not the CCO uses provider incentives to reduce cost by limiting services;

(tu) The member's right to request and obtain copies of their clinical records, ~~(and whether they may be charged a reasonable copying fee) and to~~ and that they may request that the record be amended or corrected;

(uy) How and when members are to obtain ambulance services;

(vw) Resources for help with transportation to appointments with providers;

(wx) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(xy) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(yz) The CCO's confidentiality policy;

(zaa) How and where members are to access any benefits that are available under OHP but are not covered under the CCO's contract, including any cost sharing;

(aabb) When and how members can voluntarily and involuntarily disenroll from CCOs and change CCOs;

~~(bb) The CCO shall compile a printed provider directory and may offer the directory online, if available, for distribution to members, which may be part of their member handbook or separate, and shall include currently contracted provider names and specialty, non-English languages spoken, office location, telephone numbers including TTY, office hours, and accessibility for members with disabilities;~~

(cc) CCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the CCO's internal changes. If changes affect the member's ability to use services or benefits, the CCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the CCO's member handbook, and a CCO may not use it to substitute for any component of the CCO's member handbook.

(e14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. A CCO's providers or other individuals or programs approved by the CCO may provide health education. CCOs shall endeavor to

provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) CCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Authority-Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of intensive care coordination services, ~~formerly known as ENCG~~ and how to access intensive care coordination, through outreach to members with special health care needs, who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) CCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from CCO's participating providers. The CCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the CCO sufficient notification to meet the 30-day notice requirement. The Authority-Division shall review and approve the materials within two working days.

(715) Informational materials that CCOs develop for members shall meet the language requirements identified in this rule, and be culturally and linguistically sensitive to members with disabilities or reading limitations, including substantial populations members whose primary language is not English:

(a) CCOs shall provide free interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care.

(A) CCOs shall translate materials into all languages as identified in (1) (d) of this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. for substantial populations of non-English-speaking members in the CCO's caseload. CCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(B) The CCOs shall provide written translations of informational materials including which shall include but not be limited to their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in (1) (d) of this

rule and as identified by members either through the OHP application or other means as their preferred written language, member handbook in the primary language of each substantial population. Alternative forms may include, but are not limited to audio recordings, close captioned videos, large type and Braille;

(b) Form correspondence sent to members, including but not limited to, enrollment information, choice and member counseling letters, and notices of action to deny, reduce, or stop a benefit shall be sent in the member's preferred written language. If sent in English to members who prefer a different language, the letters shall include tag lines in English and in other prevalent non-English languages as specified in (1) (d) of this rule. The tag lines, placed at the beginning of the document, shall have instructions on how to receive an oral or written translation of the material.

~~shall include instructions in the language of each substantial population of non-English speaking members on how to receive an oral or written translation of the material.~~

(816) CCOs shall provide an identification card to members, unless waived by the Authority, Division, which that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the CCO, members, and providers.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 414.685