

Health Care Cost Growth Target Program – DRAFT RULES

Health Policy and Analytics - Chapter 409
Division 065
Sustainable Health Care Cost Growth Target Program

409-065-0000 Purpose

Senate Bill 889 (2019 Legislature) established the Sustainable Health Care Cost Growth Target Program within the Oregon Health Authority. These rules (OAR 409-065-0000 to 409-065-0030) define reporting requirements to the Oregon Health Authority. The data will inform the work of the Sustainable Health Care Cost Growth Target Program as it reports on health care cost drivers and trends.

409-065-0005 Definitions

The following definitions apply to OAR 409-065-0000 to 409-065-0030:

- (1) “Accident policy” means an insurance policy that provides benefits only for a loss due to accidental bodily injury.
- (2) “Authority” means the Oregon Health Authority.
- (3) “DCBS” means the Oregon Department of Consumer and Business Services.
- (4) “Dental-only insurance” means an insurance policy that provides benefits only for dental services.
- (5) “Disability policy” means an insurance policy that provides benefits for losses due to a covered illness or disability.
- (6) “Health benefit plan” has the meaning provided in ORS 743B.005.
- (7) “Health care” has the meaning provided in ORS 442.385.
- (8) “Health insurance” has the meaning provided in ORS 731.162.
- (9) “Hospital indemnity policy” means an insurance policy that provides benefits only for covered hospital stays.
- (10) “Long-term care insurance” has the meaning provided in ORS 743.652.
- (11) “Mandatory Reporter” means any payer or licensed third party administrator with a mean total lives of 1,000 or more across all lines of business, as calculated by the Authority.

- (12) “Medicare supplemental insurance” means a group or individual insurance policy or a subscriber contract, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. section 1395 et seq.) or an issued policy under a demonstration project specified in 42 U.S.C. section 1395ss(g)(1) that is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.
- (13) “Payer” has the meaning provided in ORS 442.385.
- (14) “Specific disease policy” means an insurance policy that provides benefits only for a loss due to a covered disease.
- (15) “Stand-alone prescription drug plan” means an insurance policy that provides benefits only for prescription drugs.
- (16) “Stop-loss plan” means insurance against the risk of economic loss assumed under a less than fully-insured employee health benefit plan as provided in ORS 742.065.
- (17) “Third-party administrator (TPA)” means any person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on, residents of Oregon or residents of another state from offices in Oregon, in connection with life insurance or health insurance coverage; or any person or entity who must otherwise be licensed under ORS 744.702.
- (18) “Vision policy” means a health benefits plan covering only vision health care.
- (19) “Voluntary reporter” means a payer or third-party administrator that does not meet the requirements to be considered a Mandatory Reporter and elects to submit cost growth target data on a voluntary basis.

Statutory/Other Authority: ORS 442.386

Statutes/Other Implemented: ORS 442.385 & 442.386

409-065-0010 General Reporting Requirements

- (1) The Authority shall make mandatory reporter determinations on an annual basis and provide written notification no later than April 30 to all reporters subject to the reporting requirements of the current year. ~~For the initial year of submission, 2021, the Authority must provide written notification to mandatory reporters by May 31.~~
- (2) All Mandatory Reporters must submit data files in a manner and form as prescribed by 409-065-0015.

- (3) The Authority will identify voluntary reporters that have calculated mean total lives of 1,000 or higher across all lines of business and invite them to participate in the annual data submission.
- (4) If an entity believes a determination by the Authority of its mandatory reporter status to be in error, the organization must contact the Authority to contest the determination no later than 30 calendar days after receipt of notification.
- (5) New mandatory reporters submitting for the first time, or mandatory reporters that did not submit data in the previous year, must attend a data submission training session prior to their first submission of data, as provided by the Authority.

Statutory/Other Authority: ORS 442.386

Statutes/Other Implemented: ORS 442.385 & 442.386

409-065-0015 Data Submission Requirements

- (1) ~~For the initial year of submission, 2021, all mandatory reporters, as identified in OAR 409-065-0110, must submit a completed Cost Growth Target Data Submission Template (CGT-1) to the Authority by Oct 1, 2021.~~ Annual data submission dates ~~thereafter must be~~ provided in the Cost Growth Target Data Specification Manual (CGT-2).
- (2) CGT-1 must be submitted in accordance with instructions published by the Authority in the Cost Growth Target Data Specification Manual (CGT-2).
- (3) Mandatory and voluntary reporters must submit data files for all required lines of business as defined in the Cost Growth Target Data Specification Manual (CGT-2). They may submit data files for the voluntary lines of business and may not submit data files for any excluded lines of business.
 - (a) Required lines of business include:
 - (A) Commercial
 - (B) Medicare
 - (C) Medicaid
 - (b) Excluded lines of business include:
 - (A) Accident policy;
 - (B) Disability policy;
 - (C) Hospital indemnity policy;
 - (D) Long-term care insurance;
 - (E) Medicare supplemental insurance;
 - (F) Stand-alone prescription drug plans;
 - (G) Specific disease policy;
 - (H) Stop-loss plans;

- (I) Supplemental insurance that pays deductibles, copays or coinsurance;
- (J) Vision-only insurance;
- (K) Workers compensation; and
- (L) Dental-only insurance.

(c) A mandatory reporter that contracts with another entity remains responsible for reporting all required lines of business. If the mandatory reporter elects to have the data reported by a contracted entity, the mandatory reporter must notify the Authority and provide contact information for the contracted entity.

- (4) The Authority has 90 calendar days to review and request clarification or corrections to the annual data submission (CGT-1). If the Authority finds errors through edit checks or validation, mandatory reporters must make corrections and resubmit data or submit a waiver request within 30 calendar days of notification by the Authority of the error(s). The Authority may make multiple requests for corrections or resubmissions. The annual data submission is only considered complete when all corrections and resubmissions have been submitted and approved by the Authority.
- (5) If a mandatory reporter changes its health risk adjustment method or software (including version updates), it must re-submit at least one prior year of data using the updated adjustment method in order to ensure comparability between years.

Statutory/Other Authority: ORS 442.386

Statutes/Other Implemented: ORS 442.385 & 442.386

409-065-0020 Waivers

- (1) The Authority may grant a waiver or deadline extension to the data submission requirements.
- (2) If a mandatory reporter believes they are eligible for a waiver of all or part of the data submission requirements they may request a waiver of reporting requirements by submitting a Cost Growth Target Data Submission Waiver/Extension Request (CGT-3).
 - (a) Mandatory reporters may submit a CGT-3 form for the following reasons:
 - (A) To request a partial waiver to the data submission requirements. The request must be submitted no later than 14 calendar days prior to the annual reporting deadline;
 - (B) To request a waiver of all data submission or validation requirements. The request must be submitted no later than 60 calendar days prior to the applicable deadline.
 - (b) The Authority must approve or deny the waiver request and provide written notification to the requestor within 14 calendar days of receipt of the request.

(c) If the Authority denies the request, the requestor may appeal the denial by requesting a contested case hearing. The appeal must be filed within 30 calendar days of the denial. The appeal process is conducted pursuant to ORS Chapter 183 and the Attorney General's Uniform and Model rules of Procedure for the Office of Administrative Hearings, OAR 137-003-0501 to 137-003-0700. The requestor shall have the burden to prove a compelling need for the waiver.

(d) The Authority shall only grant waivers for one data submission cycle at a time.

(3) If a mandatory reporter believes they require a deadline extension they must notify the Authority by submitting a Cost Growth Target Data Submission Waiver/Extension Request (CGT-3).

(a) Mandatory reporters may submit a CGT-3 form for the following reasons:

(A) To request a deadline extension for the data submission. The request must be submitted no later than 14 calendar days prior to the annual reporting deadline; or

(B) To request a deadline extension for data correction, resubmission, or validation requirements. The request must be submitted no later than 7 calendar days after the Authority requests the data correction, resubmission, or validation requirement.

(b) The Authority must approve or deny the deadline extension request and provide written notification to the requestor within 14 calendar days of receipt of the request.

(c) If the Authority denies the request, the requestor may appeal the denial by requesting a contested case hearing. The appeal must be filed within 30 calendar days of the denial. The appeal process is conducted pursuant to ORS Chapter 183 and the Attorney General's Uniform and Model rules of Procedure for the Office of Administrative Hearings, OAR 137-003-0501 to 137-003-0700. The requestor shall have the burden to prove a compelling need for the exception.

(d) The Authority shall only grant waivers for one data submission cycle at a time.

Statutory/Other Authority: ORS 442.386

Statutes/Other Implemented: ORS 442.385 & 442.386

409-065-0025 Compliance and Enforcement

(1) Unless approved by a waiver or exception, failure to comply with general data submission requirements includes but is not limited to:

(a) Failure to submit data files by the specified submission date;

(b) Failure to submit data files for a required line of business.

(2) Unless approved by a waiver or exception, failure to comply with data file requirements includes but is not limited to:

- (a) Submitting a data file in an unapproved layout;
 - (b) Submitting a data element in an unapproved format;
 - (c) Submitting a data element with unapproved coding;
 - (d) Failure to submit a required data element; or
 - (e) Failure to comply with validation and quality control efforts, including resubmitting or correcting data as requested by the Authority.
- (3) The Authority must provide mandatory reporters written notification of each failure to comply with data submission requirements prior to imposing a civil penalty. Mandatory reporters will have 30 calendar days from notification to come into compliance.
- (4) The Authority may impose civil penalties against mandatory reporters for each failure to comply that is not resolved within 30 calendar days of written notification. If a mandatory reporter does not come into compliance within 30 calendar days of written notification, penalties may be assessed starting from the date the mandatory reporter was notified of non-compliance. Pursuant to ORS 442.993, the Authority may adopt a schedule of civil penalties not to exceed \$500 per day of violation, determined by the severity of the violation for any mandatory reporter that fails to report cost growth data.
- (5) If a mandatory reporter has made documented efforts to comply with these rules, the Authority may consider this a mitigating factor before imposing civil penalties against the mandatory reporter.

Statutory/Other Authority: ORS 442.386 & 442.993

Statutes/Other Implemented: ORS 442.385, 442.386 & 442.993

409-065-0030 Data Access and Disclosure

- (1) The Authority may use and disclose data submitted to it under these rules in accordance with ORS 442.386 and any applicable Authority policies and state and federal rules, regulations, and statutes.
- (2) The Authority may provide a public use data set in compliance with applicable Authority policies and state and federal rules, regulations, and statutes.

Statutory/Other Authority: ORS 442.386

Statutes/Other Implemented: ORS 442.385 & 442.386