



Legacy Health
1919 N.W. Lovejoy St.
Portland, OR 97209
503.415.5600 phone
50.415.5777 fax

May 1, 2024

Sarah Bartelmann, Cost Programs Manager
Zachary Goldman, Health Care Cost Economist
Sustainable Health Care Cost Growth Target Program
Oregon Health Authority

Delivered electronically to HealthCare.CostTarget@oha.oregon.gov.

Re: Comments for RAC#4

Ms. Bartelmann and Mr. Goldman:

Legacy Health would like to extend appreciation to the Oregon Health Authority (OHA) for listening and incorporating many of our concerns to date. Specifically, we would like to highlight your response to feedback in removing the funds flow to the Basic Health Plan, the incorporation of credit for the “good” years and not double counting the “bad” years into the penalty calculations, as well as moving the timeline forward by a year. We also appreciate the removal of the requirement for a Performance Improvement Plan (PIP) if the cost growth is indeterminate as an key improvement to the proposed rule.

There are, however, still areas of concern, and issues still to be addressed.

Front Line Wage Reporting and Calculations: We still feel that pursuant to HB 2045, the wage growth should be removed prior to the cost calculations. While we understand that the OHA is interpreting the House Bill differently, and there are challenges to removing internal cost dollars from claim line dollars, we feel that the burden of proof lies with the OHA to demonstrate that cost growth without the inclusion of front-line labor cost. This could be achieved by an adjustment factor to the total cost calculation that spans all claim lines, rather than a direct “dollar for dollar” subtraction.

If the OHA is not able to adjust the total cost of care to reflect impacts of wage growth prior to determining if cost growth is above or below target, then we request that the requirement to report wage growth be removed. Required reporting that may or may not be relevant is an additional administrative burden and unnecessary.

Penalty Caps: We acknowledge the urgency from consumer advocates to have meaningful penalties that will not be written off as “the cost of doing business.” As a self-insured organization that is responsible for the health care costs of over 22,000 Oregonians, we share the challenges of high drug prices, growing behavioral health crisis, and other current drivers of cost.

Our greatest concern lies with the overall structure of where these penalties land, and that they do not follow the healthcare dollars that are being spent. By targeting the penalties through primary care attribution, this program would levy penalties on the providers who are some of the lowest cost entities and are not the recipients of the dollars driving total cost of care. Penalties that range into millions of dollars would be disastrous to independent primary care groups that are already in short supply and are essential to keeping costs down but are not the drivers of cost.

Until we all go through this process in full, including the more meaningful data analysis to identify the actual drivers of cost and can determine the actual impact of the PIP process, we strongly recommend that a cap of \$10,000 be adopted. If, after some experience, the PIP process is not being followed or the penalties are being written off, the cap can be revisited. Starting with potentially devastating penalties, before there is any “real world” experience with this process, is premature and could have serious negative consequences on Oregon’s provider network.

Protecting Medicare and Medicaid: We have significant concerns that already marginalized populations (Medicare and Medicaid) will lose their already tenuous access to primary care. Oregon is already experiencing an environment where many provider organizations are withdrawing or limiting access for patients with these government payors due to unsustainable rates. We are concerned that facing large penalties could exacerbate the access crisis and create unintended consequences for populations that are already finding it difficult to get care.

Thank you again for offering the opportunity to provide input into this process. We look forward to continuing the discussion at the next RAC.

Sincerely,

Nikolaus Kashey MD MPH

Nikolaus Kashey MD MPH (May 2, 2024 13:25 PDT)

Nikolaus Kashey, MD, MPH
Clinical Vice President Population Health