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**STATE OF OREGON
OREGON HEALTH AUTHORITY
HEALTH POLICY AND ANALYTICS DIVISION
SUSTAINABLE HEALTH CARE COST GROWTH TARGET PROGRAM**

In the Matter of:

Kaiser Foundation Health Plan of the
Northwest, an Oregon Nonprofit
Corporation, Kaiser Foundation
Health Plan, Inc., a California
Nonprofit Corporation, dba Kaiser
Permanente

For the Cost Growth Target
measurement period: 2021-2022

Agency No. **CGT-2023-PAYER-01**

CGT-2023-PROV-01

**NOTICE OF PROPOSED DETERMINATION
AND RIGHT TO REQUEST A HEARING**

Oregon Health Authority's (OHA) Sustainable Health Care Cost Growth Target Program (CGT) is tasked with monitoring the cost of health care in Oregon and holding payers and provider organizations accountable for cost growth that exceeds the annual target with statistical confidence and without an acceptable reason. The CGT is governed by Oregon Revised Statutes (ORS) 442.385 through 442.386 and Oregon Administrative Rules (OAR) Chapter 409, Division 65.

Per ORS 442.386 and OAR 409-065-0035, OHA reviews underlying cost drivers and reasons for cost growth and makes a determination as to whether such conditions or

factors, or combination of such conditions or factors, suffices as reasonable cause for an entity to exceed the cost growth target for the measurement period.

Now, therefore, upon due consideration of the circumstances, including the mandatory cost growth target data submissions, supplemental information provided by the entity, and the entirety of OHA's record, OHA enters the following Notice of Proposed Determination.

Procedural History and Findings of Fact

OHA's CGT conducted its cost growth review under OAR 409-065-0035, which requires that OHA conduct analyses to understand potential systematic causes or other factors that might result in payers or provider organizations exceeding the cost growth target. The cost growth target for 2021 through 2025 is 3.4%.¹

Kaiser Foundation Health Plan of the Northwest, an Oregon Nonprofit Corporation, is a payer in Oregon and is a mandatory reporter under OAR 409-065-0010. Kaiser Foundation Health Plan, Inc., a California Nonprofit Corporation, dba Kaiser Permanente, is a provider organization in Oregon and was identified as an accountable organization for the 2021-2022 measurement period. To be accountable to the target, provider organizations must have at least 10,000 unique patient lives or 5,000 lives within any one CGT market (Medicaid, Medicare, Commercial) attributed to them across CGT data submissions for the measurement period.²

As Kaiser Foundation Health Plan of the Northwest and Kaiser Permanente operate an integrated delivery system, the entities are collectively referred to herein as "Kaiser"

¹ The cost growth target value for 2021-2025 was established by the Cost Growth Target Implementation Committee, as documented in their January 2021 Recommendations Report.

<https://www.oregon.gov/oha/HPA/HP/HCCGBDocs/Cost%20Growth%20Target%20Committee%20Recommendations%20Report%20FINAL%2001.25.21.pdf>

² Provider inclusion criteria were established by the Cost Growth Target Implementation Committee, as documented in their January 2021 Recommendations Report.

<https://www.oregon.gov/oha/HPA/HP/HCCGBDocs/Cost%20Growth%20Target%20Committee%20Recommendations%20Report%20FINAL%2001.25.21.pdf> OHA publishes the list of provider organizations that meet inclusion criteria every year.

https://www.oregon.gov/oha/HPA/HP/Cost%20Growth%20Target%20documents/List-of-Provider-Organizations-for-CGT_01.31.2024.pdf

and per OHA's sub-regulatory guidance (CGT-7), jointly participated in the determining reasonableness process.

On or around April 20, 2023, OHA notified Kaiser Foundation Health Plan that it was subject to the cost growth target program for the 2023 data cycle as a payer/mandatory data submitter, with a data submission due date of September 1, 2023.

On or around August 24, 2023, Kaiser Foundation Health Plan submitted its mandatory data submission (CGT-1) to OHA. OHA generated a data validation summary on August 24, 2023 and held a meeting with Kaiser Foundation Health Plan on or around September 19, 2023 to review its data and identify any issues or concerns. OHA completed CGT-1 data validation with Kaiser Foundation Health Plan on or around September 19, 2023.

On or around December 13, 2023, OHA notified Kaiser Permanente that it had sufficient patient volume to be accountable to the cost growth target. On or around January 10, 2024, OHA generated a data output summary and shared it with Kaiser Permanente on or around January 24, 2024. On or around February 13, 2024, OHA met with Kaiser Permanente to review data output for the 2023 data cycle and discuss and resolve any data validation concerns. On or around February 14, 2024, OHA completed CGT-1 data validation with Kaiser Permanente.

On or around May 7, 2024, OHA notified Kaiser of the cost growth data that were to be reported publicly in OHA's 2024 Cost Growth Target Annual Report, for the 2021-2022 cost growth measurement period. This report was released publicly on or around May 28, 2024.

OHA identified Kaiser as having cost growth over the target between calendar years 2021 and 2022 for the following markets: **Medicare Advantage, 7.8%**, for both Kaiser Foundation Health Plan of the Northwest and Kaiser Permanente.

On or around July 25, 2024, OHA notified Kaiser that it had exceeded the cost growth target for the 2021-2022 measurement period pursuant to OAR 409-065-0035(3).

On August 26, 2024, OHA met with Kaiser to discuss potential reasons for its excess cost growth for Medicare Advantage from 2021-2022. See Attachment 1 for meeting information and participants.

Findings of Determining Reasonableness Process

As a result of the reasonableness discussion and data review process, OHA identified the following major cost drivers for Kaiser from 2021-2022:

1. **High cost outliers.** Kaiser provided insurance coverage and care for Medicare Advantage members requiring high cost medical services in the second year of the measurement period. This medically necessary high spending resulted in a year-over-year trend surpassing the statewide target.
2. **Increase in cost of nursing workforce.** Kaiser serves as the primary care home for multiple Medicare Advantage patients who required nursing care to manage their conditions. During the 2021-2022 period, the cost of providing this care rose, due to both increased reliance on contracted agency nursing and rising workforce costs for nurses employed directly by Kaiser.
3. **Shortage in skilled nursing beds and associated increase in hospital inpatient costs.** Skilled nursing beds were limited in Oregon during the 2021-2022 measurement period.³ As a result, some patients remained in higher-cost inpatient settings for a long period of time before they could be transferred elsewhere. The length of stays in inpatient settings relative to skilled nursing facilities (SNF) for Kaiser's Medicare Advantage patients increased in 2022 relative to prior years.

³ See for example OHA and ODHS' presentation to the Emergency Board on September 21, 2022 https://www.oregon.gov/oha/HPA/HP-MAC/MACmeetings/3a.%20APD_OHA_Emergency_Board_Slides_Draft.pdf and the Oregon Nursing Facilities 2022 Report. <https://health.oregonstate.edu/sites/health.oregonstate.edu/files/2023-10/2022%20Oregon%20Nursing%20Facilities%20Report.pdf> and the Recommendations of the Joint Task Force on Hospital Discharge Challenges <https://olis.oregonlegislature.gov/liz/202311/Downloads/CommitteeMeetingDocument/286667>.

PROPOSED DETERMINATION

OHA finds that Kaiser Foundation Health Plan of the Northwest and Kaiser Permanente's cost growth for Medicare Advantage from 2021-2022 was:

- **Due to acceptable reason(s).** Kaiser will not be held accountable for cost growth as a payer or a provider organization in this measurement period and no further action is required for this measurement period.

Please see Attachment 2 for a running summary of Kaiser's cost growth performance over time.

Dated this 21 day of January, 2025.

By:



Sarah Bartelmann, MPH
Cost Programs Manager
Oregon Health Authority

IMPORTANT NOTICES

PETITION FOR RECONSIDERATION: You may file a Petition for Reconsideration ("Petition") pursuant to OAR 409-065-0050 within 30 days from the date this proposed order was mailed (See the "Date Mailed" on the first page). The Petition must include the specific grounds for reconsideration, and may be supported by written argument or attachments explaining why you believe OHA erred in its decision. This Petition will initiate an informal review process under OAR 409-065-0050.

The Petition must be submitted via email to HealthCare.CostTarget@oha.oregon.gov.

NOTICE OF RIGHT TO REQUEST A HEARING: You are entitled to a hearing as provided by the Administrative Procedures Act (chapter 183, Oregon Revised Statutes), OAR 409-065-0050 and OAR 137-070-0075. You are entitled to be represented by an

attorney at the hearing. Legal aid organizations may be able to assist a party with limited resources. The Oregon Health Authority will be represented by an Assistant Attorney General from the Oregon Department of Justice.

To request a contested case hearing, your request must be in writing and must be received within twenty (20) calendar days from the date this Order was personally served, mailed, or electronically transmitted to you, based on the date at the top of this document.

A request sent by U.S. mail is “received” on the date it is postmarked. Your request may also be emailed. Your request should be sent to:

HealthCare.CostTarget@oha.oregon.gov

or

421 SW Oak Street, Suite 875
Attn: Cost Growth Target Program
Portland, OR 97204

If you submit a request for a contested case hearing, you will be notified of the time and place of the hearing. Information on the hearing process will be provided to you in accordance with ORS 183.413(2). Any hearing will be conducted by an administrative law judge from the Office of Administrative Hearings, assigned as required by ORS 183.635.

If you fail to request a hearing within the time allowed, if you request a hearing and subsequently withdraw your request for a hearing, if you request a hearing and fail to appear for the hearing, or if a hearing is scheduled and you later notify OHA that you will not appear at the specified time and place, you will have waived your right to a hearing, and this proposed order will become a final order by default. If OHA issues a final order by default, it designates its file on this matter, including all materials that you have submitted relating to this matter, as the record in this case for purposes of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active-duty service members have a right to stay these proceedings under the federal service members Civil Relief Act. For

more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

Attachment 1: Meeting Dates and Participants

Meeting Date	Participants
August 26, 2024	Sarah Bartelmann (OHA), Sam Smith (OHA), Trang Weitemeier (OHA), Greg Daniel (Kaiser), Rebecca Williams (Kaiser), Jennifer Stacy (Kaiser), Xuemin Zhang (Kaiser), Wei Wang (Kaiser), David Liebert (Kaiser)

Attachment 2: Cost Growth Target Performance Over Time

Medicare Advantage Cost Growth: Kaiser Health Plan of the Northwest

Measurement Year	Cost Growth %	Status	Determination
2021-2022	7.8%	Not Met	Reasonable

Medicare Advantage Cost Growth: Kaiser Permanente

Measurement Year	Cost Growth %	Status	Determination
2021-2022	7.8%	Not Met	Reasonable