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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 410  
OREGON HEALTH AUTHORITY  
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

**FILED**

11/29/2023 11:51 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Responsibility for Particular Covered Services Based on Plan Type

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/21/2023 5:00 PM

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

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later.*

*If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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**NEED FOR THE RULE(S)**

The reason for the rule is to make publicly accessible certain information that is otherwise only "published" in OHA's Coordinated Care Organization (CCO) contracts for Oregon Health Plan (OHP) services. Two of the three sections of the new rule reflect requirements that already exist in the CCO contracts. The third section is new for the 2024 contracts; it's related to Health-Related Social Needs Services being implemented under OHA's 1115 Medicaid waiver for 2022-2027 approved by CMS.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

2023 CCO contract template: <https://www.oregon.gov/oha/HSD/OHP/CCO/2023-CCO-ContractTemplate.pdf>

Definition of "Plan Type" in OAR 410-141-3500: <https://secure.sos.state.or.us/oard/view.action?ruleNumber=410-141-3500>

Information about OHA's 1115 Medicaid waiver for 2022-2027:

<https://www.oregon.gov/oha/hsd/medicaidpolicy/pages/waiver-renewal.aspx>

**STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE**

Adoption of the rule will make it more clear to the general public, internal staff, and other interested parties whether CCOs vs. OHA's fee-for-service program are responsible for covering certain specialty programs/services for OHP members as described in the CCO contract.

**FISCAL AND ECONOMIC IMPACT:**

OHA does not anticipate there will be an impact based on this rule. The rule reflects decisions made by OHA that will

take effect regardless of whether the rule is adopted. The purpose of the rule is to make the information more accessible. The effect of the decisions represented in the rule have already been incorporated into OHA's contracts with CCOs and in the associated payment rates.

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**COST OF COMPLIANCE:**

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) OHA does not anticipate there will be an impact based on this rule. The rule reflects decisions made by OHA that will take effect regardless of whether the rule is adopted. The purpose of the rule is to make the information more accessible. The effect of the decisions represented in the rule have already been incorporated into OHA's contracts with CCOs and in the associated payment rates.

(2)

(a) The businesses affected by this rule are CCOs, which are not included in the State's definition of "small business" pursuant to ORS 183.310(10)(b).

(b) This does not apply. Refer to 2 (a) above.

(c) This does not apply. Refer to 2 (a) above.

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**DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

This does not apply. Refer to 2 (a) above.

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**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?**

A RAC exception was approved for this rule because of the following documented engagement with the affected stakeholders (CCOs):

9/14/2023: Presentation by OHA's Medicaid waiver team staff in CCO waiver work session #6.

9/26/2023: Presentation by OHA's 1115 Waiver Strategic Operations Director in monthly CCO Contracts & Compliance meeting.

10/6/2023: CCO Contracts Administrator sent draft rule to all CCOs on 9/18/2023. Requested feedback by 10/6/2023 about rule content specifically related to Health-Related Social Needs (HRSN) Services that will be new to CCO contract effective 1/1/2024. No CCO feedback about HRSN content. (No feedback requested about other content because it's already in CCO contract.)

The requirement to include small businesses does not apply since CCOs are not small businesses. Refer to 2 (a) above.

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**ADOPT: 410-141-3826**

**RULE SUMMARY:** The rule identifies whether the CCO or OHA's FFS program is responsible for certain services covered in the CCO contract based on the CCO member's plan type.

CHANGES TO RULE:

410-141-3826

Responsibility for Particular Covered Services Based on Plan Type

(1) CCO responsibility for particular Covered Services, as that responsibility is described in the CCO contract, is determined by the member's plan type, as follows:¶

(a) Universally Offered Newborn Nurse Home Visiting Program, commonly known as Family Connects Oregon (FCO): FCO is governed by ORS 433.301 and described in OAR Chapter 333, Division 6.¶

(A) The CCO is responsible for care coordination for FCO services for an eligible member if the CCO is responsible for the member's physical health services (plan types CCOA and CCOB).¶

(B) The Oregon Health Authority's (OHA) fee-for-service (FFS) program is responsible for FCO services for all other plan types that include physical health services.¶

(b) Out-of-Hospital Birth, commonly known as Planned Community Birth (PCB): PCB is described in OAR 410-141- 3846.¶

(A) The CCO is responsible for the components of PCB specified in the CCO contract for an eligible member if the CCO is responsible for the member's physical health services (plan types CCOA and CCOB).¶

(B) OHA's FFS program is responsible for PCB for all other plan types that include physical health services. The FFS program is also responsible for the components of PCB not specified as the CCO's responsibility in the contract for members for whom the CCO is responsible for physical health services.¶

(c) Health-Related Social Needs (HRSN) Services: HRSN Services are authorized by the CMS-approved Oregon Health Plan 1115 Demonstration Project for 2022-2027, commonly known as the State 1115 Waiver.¶

(A) The CCO is responsible for all HRSN Services for an eligible member if the CCO is responsible for the member's physical health services (plan types CCOA and CCOB), regardless of whether a particular HRSN Service is related to the member's physical health condition or needs.¶

(B) OHA's FFS program is responsible for all HRSN Services for an eligible member if the FFS program is responsible for the member's physical health services, regardless of whether a particular HRSN Service is related to the member's physical health condition or needs.

Statutory/Other Authority: ORS 413.042, 414.065

Statutes/Other Implemented: ORS 414.591, 414.631