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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

FILED
08/13/2025 8:49 AM
ARCHIVES DIVISION
SECRETARY OF STATE

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

FILING CAPTION: Amending pharmacy dispensing, prescription requirements and regulatory cleanup of program rules.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2025 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.

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Filed By:
Brenna Bird
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/18/2025
TIME: 1:30 PM - 2:15 PM
OFFICER: Brenna Bird

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 1-669-254-5252
CONFERENCE ID: 1604361387
SPECIAL INSTRUCTIONS:
Topic: Public Hearing: OAR 410-121
Time: Sep 18, 2025 01:30 PM Pacific Time (US and Canada)

Join ZoomGov Meeting
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NEED FOR THE RULE(S)

The Pharmaceutical Services program administrative rules (division 121) govern Division payments for services provided to certain clients. The Authority needs to implement changes to prescription limitations and prescriptions requirements to align other rules with current policies.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

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

Minority populations in Oregon are impacted by health inequities and often face challenges accessing medical and prescription services. These rule changes may reduce delays, increase medication adherence, and improve health outcomes for these populations. Clearer and more accurate administrative rules help promote transparency and trust, particularly for providers serving diverse Medicaid populations.

FISCAL AND ECONOMIC IMPACT:

No fiscal impact to any entity in Oregon, the Department/Authority does not anticipate there will be a fiscal impact from these rule changes.

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. Oregon Health Authority and Coordinated Care Organizations, may benefit from improved rule clarity, updated definitions, and streamlined administrative requirements. These changes will help ensure consistent application of pharmacy policies and align rules with current law and practice.

2. (a) Small businesses will not be directly affected by this rule.
(b)There is no anticipated increase.
(c)There is no anticipated increase.

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

None

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
410-121-0000, 410-121-0111, 410-121-0145, 410-121-0146, 410-121-0147, 410-121-0155

AMEND: 410-121-0000

RULE SUMMARY: Amending definition of “mental health drug” to align with other rules and remove references to

previous repealed rule definition.

CHANGES TO RULE:

410-121-0000
Foreword and Definition of Terms ¶

(1) The Health Systems Division (Division) Oregon Administrative Rules (OAR) are designed to assist providers in preparing claims for services provided to the Division's fee-for-service clients. Providers must use Pharmaceutical OARs in conjunction with the General Rules OARs (chapter 410, division 120) for Oregon Medical Assistance Programs.-¶
(2) Pharmaceutical services delivered through a managed care plan or a Coordinated Care Organization (CCO) contracted with the Division under the Oregon Health Plan (OHP) are subject to the policies and procedures established in the OHP administrative rules (chapter 410, division 141) and by the specific managed care plan or CCO.-¶
(3) Definition of Terms:-¶
(a) "Actively Practicing" means the active practice of medicine as described in ORS chapter 689 or the active practice of pharmacy as described in ORS chapter 677.-¶
(b) "Authority" means the Oregon Health Authority. See the Oregon Health Authority definition in General Rules (chapter 410, division 120);-¶
(c) "Average Manufacturer's Price (AMP)" means the average price that manufacturers sell medication to wholesalers and retail pharmacies, as further clarified in 42 CFR 447;-¶
(d) "Bulk Dispensing" means multiple doses of medication packaged in one container labeled as required by pertinent federal and state laws and rules;-¶
(e) "Centers for Medicare and Medicaid Services (CMS) Basic Rebate" means the quarterly payment by the manufacturer of a drug pursuant to the manufacturer's CMS Medicaid Drug Rebate Agreement made in accordance with Section 1927(c) of the Social Security Act (42 U.S.C. 1396r-8(c)). See 410-121-0157;-¶
(f) "CMS Consumer Price Index (CPI) Rebate" means the quarterly payment by the manufacturer pursuant to the manufacturer's CMS Medicaid Drug Rebate Agreement made in accordance with Section 1927(c)(2) of the Social Security Act (42 U.S.C. 1396r-8(c));-¶
(g) "Compendia" means those resources widely accepted by the medical profession in the efficacious use of drugs, including the following sources:-¶
(A) The American Hospital Formulary Service Drug information;-¶
(B) The United States Pharmacopeia Drug Information (or its successor publications);-¶
(C) The American Medical Association drug evaluations;-¶
(D) Peer-reviewed medical literature;-¶
(E) Drug therapy information provided by manufacturers of drug products consistent with the federal Food and Drug Administration requirements.-¶
(h) "Community Based Care Living Facility" means for the purposes of the Division's Pharmacy Program, a home, facility, or supervised living environment licensed or certified by the State of Oregon that provides 24-hour care, supervision, and assistance with medication administration. These include but are not limited to:-¶
(A) Supportive living facilities;-¶
(B) Twenty-four hour residential services;-¶
(C) Adult foster care;-¶
(D) Semi-independent living programs;-¶
(E) Assisted living and residential care facilities;-¶
(F) Group homes and other residential services for people with developmental disabilities or needing mental health treatment; and-¶
(G) Inpatient hospice.-¶
(i) "Compounded Prescription" means the following:-¶
(A) A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient that must be a reimbursable item or a legend drug in a therapeutic amount;-¶
(B) Compounded prescription further defined to include the Oregon Board of Pharmacy definition of compounding (see OAR 855-006-0005).-¶
(j) "Dispensing" means issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist;-¶
(k) "Director" means the director of the Authority;-¶
(L) "Drug Order/Prescription" means the following:-¶
(A) A medical practitioner's written or verbal instructions for a patient's medications; or-¶
(B) A medical practitioner's written order on a medical chart for a client in a nursing facility.-¶

(m) "Durable Medical Equipment and Supplies (DME)" means equipment and supplies as defined in OAR 410-122-0010, Durable Medical Equipment, Prosthetics, Orthotics, and Supplies;¶
(n) "Intermediate Care Facility" means a facility providing regular health-related care and services to individuals at a level above room and board, but less than hospital or skilled nursing levels as defined in ORS 442.015;¶
(o) "Legend Drug" means a drug limited by Section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act to being dispensed by or upon a medical practitioner's prescription because the drug is:¶
(A) Habit-forming;¶
(B) Toxic or having potential for harm; or¶
(C) Limited in its use to being used under a practitioner's supervision by the new drug application for the drug:¶
(i) The product label of a legend drug is required to contain the statement: "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION;"¶
(ii) A legend drug includes prescription drugs subject to the requirement of Section 503(b)(1) of the federal Food, Drug, and Cosmetic Act that shall be exempt from Section 502(F)(1) if certain specified conditions are met.¶
(p) "Long Term Care Facility" means skilled nursing facilities and intermediate care facilities with the exclusions found in ORS 443.400 to 443.455;¶
(q) "Maintenance Medication" means drugs that have a common indication for treatment of a chronic disease, and the therapeutic duration is expected to exceed one year. This is determined by a First DataBank drug code maintenance indicator of "Y" or "1;"¶
(r) "Mental Health Drug" means a type of legend drug defined by the Oregon Health Authority (Authority) by rule that includes but is not limited to those drugs classified by First DataBank in the following Standard Therapeutic Classes:¶
(A) Therapeutic Class 7 ataractics-tranquilizers and Therapeutic Class 11 psychostimulants-antidepressants;¶
(B) Depakote, Lamictal, and their generic equivalents and other drugs that the Division specifically carved out from capitation from CCOs~~, Fully Capitated Health Plans (FCHPs) in accordance with OAR 410-141-3070 and 410-141-0070.~~ as specified in OAR 410-141-3855.¶
(s) "Narrow Therapeutic Index (NTI) Drug" means a drug that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring;¶
(t) "National Average Drug Acquisition Cost (NADAC)" means the rate that is established by CMS or its contractor by rolling surveys of pharmacies nationwide to verify the actual invoice amount paid by the pharmacy or corporate entity to wholesalers, manufacturers, or distribution centers for the product. The NADAC is the average of invoice amounts for individual drug products based on the Generic Sequence Number (GSN);¶
(u) "Net Price" means the amount a drug costs the Division and is calculated using the following formula: OR-AAAC, minus CMS Basic Rebate, minus CMS CPI Rebate, minus State Supplemental Rebate;¶
(v) "Nominal Price" means sales at less than 10 percent of the Average Manufacturer's Price (AMP);¶
(w) "Non-Preferred Products" means any medication in a class that has been evaluated and that is not listed on the Practitioner-Managed Prescription Drug Plan Preferred Drug List in OAR 410-121-0030;¶
(x) "Nursing Facility" means an establishment that is licensed and certified by the Department's Aging and People with Disabilities Division (APD) as a Nursing Facility;¶
(y) "Oregon Average Actual Acquisition Cost (OR-AAAC)" means the rate that is established by the Division or its contractor by rolling surveys of enrolled pharmacies to verify the actual invoice amount paid by the pharmacy or corporate entity to wholesalers, manufacturers, or distribution centers for the product. The AAAC is the average of invoice amounts for individual drug products based on the Generic Sequence Number (GSN);¶
(z) "Pharmacist" means an individual who is licensed as a pharmacist under ORS chapter 689;¶
(aa) "Physical Health Drug" means all other drugs not included in the definition of a "mental health drug" according to this rule;¶
(bb) "Point-of-Sale (POS)" means a computerized, claims submission process for retail pharmacies that provides on-line, real-time claims adjudication;¶
(cc) "Preferred Drug List (PDL)" means the list of prescription drugs in selected classes that the Authority in consultation with the Pharmacy & Therapeutics Committee (P & T) has determined represent the most effective drugs available at the best possible price. (See details for the Division's PMPDP PDL in OAR 410-121-0030.) The following are two types of preferred drug lists:¶
(A) "Enforceable Physical Health Preferred Drug List" means the list of "preferred" drug products used to treat physical health conditions. The "preferred" drugs may nevertheless require prior authorization (PA) for clinical reasons. Drugs prescribed that do not appear on the PDL (non-preferred products) shall be subject to PA;¶
(B) "Voluntary Mental Health Preferred Drug List" means the list of "preferred" drug products used to treat mental health conditions. Any drug prescribed for the treatment of mental health diagnosis shall be exempt from non-clinical PA requirements by the Division.¶
(dd) "Preferred Products" means products in classes that have been evaluated and placed on the Practitioner Managed Prescription Drug Plan (PMPDP) PDL in OAR 410-121-0030;¶

(ee) "Prescriber" means any person authorized by law to prescribe drugs;-¶
(ff) "Prescription Splitting" means any one or a combination of the following actions:-¶
(A) Reducing the quantity of a drug prescribed by a licensed practitioner for prescriptions not greater than 34 days, except as needed for Prescription Synchronization (see OAR 410-121-0146);-¶
(B) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing fee for the quantity billed, except as needed for Prescription Synchronization (see OAR 410-121-0146);-¶
(C) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients, with the exception of compounded medications (see OAR 410-121-0146); or-¶
(D) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice.-¶
(gg) "Prescription Synchronization" means the process of, at the client's direction, aligning the refill dates of a client's prescription drugs so drugs that are refilled at the same frequency may be refilled concurrently;-¶
(hh) "Prior Authorization Program (PA)" means the prior authorization program is a system of determining, through a series of therapeutic and clinical protocols, which drugs require authorizations prior to dispensing:-¶
(A) OAR 410-121-0040 lists the drugs or categories of drugs requiring PA;-¶
(B) The practitioner or practitioner's licensed medical personnel listed in OAR 410-121-0060 may request a PA.-¶
(ii) "State Supplemental Rebates" means the Division and CMS approved discounts paid by manufacturers per unit of drug. These rebates are authorized by the Social Security Act section 42 USC 1396r-8(a)(1) and are in addition to federal rebates mandated by the Omnibus Budget Rehabilitation Act (OBRA 90) and the federal rebate program;-¶
(jj) "Unit Dose" means a sealed, single unit container of medication so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for the unit dose dispensing system established by the Oregon Board of Pharmacy;-¶
(kk) "Urgent Medical Condition" means a medical condition that arises suddenly, is not life-threatening, and requires prompt treatment to avoid the development of more serious medical problems;-¶
(LL) "Usual and Customary Price" means a pharmacy's charge to the general public that reflects all advertised savings, discounts, special promotions, or other programs including membership based discounts initiated to reduce prices for product costs available to the general public, a special population, or an inclusive category of customers;-¶
(mm) "Wholesale Acquisition Cost (WAC)" means the price paid by a wholesaler for drugs purchased from the wholesaler's supplier, typically the manufacturer of the drug. WAC is the price of a covered product by the National Drug Code (NDC) as published by First DataBank, MediSpan, or Red Book;-¶
(nn) "340B Pharmacy" means a federally designated community health center or other federally qualified covered entity that is listed on the Health Resources and Services Administration (HRSA) website.-¶
NOTE: Publications referenced are available from the agency.
Statutory/Other Authority: ORS 413.042, 414.065, 414.325
Statutes/Other Implemented: ORS 414.065

AMEND: 410-121-0111

RULE SUMMARY: Removing outdated language referencing 2011 bill and previous governing body.

CHANGES TO RULE:

410-121-0111
Pharmacy and Therapeutics Committee ¶

(1) ~~Pursuant to Oregon Laws 2011, chapter 720 (HB 2100), the Drug Use Review Board (DUR Board) is abolished and the tenure of office for the members of the DUR Board expires. The legislature transferred the duties, functions and powers previously vested in the DUR Board to the~~ The Drug Use Review (DUR)/Pharmacy and Therapeutics ~~(P&T)~~ Committee~~. This rule is retroactively effective on September 5, 2011, the date the P&T Committee was created and the DUR Board was abolished by HB 2100 and expires whenever the Oregon Health Authority (Authority) suspends the rule.¶~~
~~(2) Unless otherwise inconsistent with these administrative rules or other laws, any administrative rule or agency policy with reference to the DUR Board or a DUR Board volunteer, staff or contractor shall be considered to be a reference to the P&T Committee or a P&T Committee volunteer, staff or contractor. The current preferred drug list (PDL), prior authorization process, and utilization review process developed by the DUR Board remains in effect until such time as the Authority, after recommendations and advice from the P&T Committee, modifies them through the adoption of new administrative rules or policies and procedures~~ (P&T Committee) is composed of 11 individuals appointed by the director of the Oregon Health Authority (Authority) pursuant to ORS 414.353.¶
(~~3~~2) The P&T Committee shall advise the Oregon Health Authority (Authority) on the following:¶
(a) Implementation of the medical assistance program retrospective and prospective programs, including the type of software programs to be used by the pharmacist for prospective drug use review and the provisions of the contractual agreement between the state and any entity involved in the retrospective program;¶
(b) Implementation of the Practitioner Managed Prescription Drug Plan (PMPDP);¶
(c) Adoption of administrative rules pertaining to the P&T Committee;¶
(d) Development of and application of the criteria and standards to be used in retrospective and prospective drug use review and safety edit programs in a manner that ensures that such criteria and standards are based on compendia, relevant guidelines obtained from professional groups through consensus-driven processes, the experience of practitioners with expertise in drug therapy, data and experience obtained from drug utilization review program operations. The P&T Committee must have an open professional consensus process, establish an explicit ongoing process for soliciting and considering input from interested parties, and make timely revisions to the criteria and standards based on this input and scheduled reviews;¶
(e) Development, selection and application of and assessment for interventions being educational and not punitive in nature for medical assistance program prescribers, dispensers and patients.¶
(~~4~~3) The P&T Committee shall make recommendations to the Authority, subject to approval by the Director or the Director's designee, for drugs to be included on any PDL adopted by the Authority and on the PMPDP. The P&T Committee shall also recommend all utilization controls, prior authorization requirements or other conditions for the inclusion of a drug on the PDL.¶
(~~5~~4) The P&T Committee shall, with the approval of the Director or designee, do the following:¶
(a) Publish an annual report;¶
(b) Publish and disseminate educational information to prescribers and pharmacists regarding the P&T Committee and the drug use review programs, including information on the following:¶
(A) Identifying and reducing the frequency of patterns of fraud, abuse or inappropriate or medically unnecessary care among prescribers, pharmacists and recipients;¶
(B) Potential or actual severe or adverse reactions to drugs;¶
(C) Therapeutic appropriateness;¶
(D) Overutilization or underutilization;¶
(E) Appropriate use of generic products;¶
(F) Therapeutic duplication;¶
(G) Drug-disease contraindications;¶
(H) Drug-drug interactions;¶
(I) Drug allergy interactions;¶
(J) Clinical abuse and misuse.¶
(K) Patient safety¶
(~~6~~c) Adopt and implement procedures designed to ensure the confidentiality of any information that identifies individual prescribers, pharmacists or recipients and that is collected, stored, retrieved, assessed or analyzed by

the P&T Committee, staff of the P&T Committee, contractors to the P&T Committee or the Authority.
Statutory/Other Authority: ORS 413.042, 414
Statutes/Other Implemented: ORS 414.065, 414.353, 414.354

AMEND: 410-121-0145

RULE SUMMARY: Removing outdated language for age restrictions and contraceptive prescribing

CHANGES TO RULE:

410-121-0145
Prescription Requirements ¶

(1) Division of Medical Assistance Programs (Division) will make payment for covered drugs supplied on drug order or prescription of a licensed practitioner and dispensed by a pharmacist. Dispensings include new prescriptions, refills of existing prescriptions, and over-the-counter (OTC) medications.¶
(~~a~~2) Each drug order or prescription filled for a Division client must ~~b~~:¶
(a) Be retained in the pharmacy's file at the pharmacy's place of business; and,¶
(b) All drug orders or prescriptions must comply with the Oregon State Board of Pharmacy rules and regulations as listed in OAR 855 Division 041.¶
~~(2) Notwithstanding subsection (1) of this rule, the following rules shall apply to over-the-counter Plan B emergency contraceptive drugs:¶~~
~~(a) Division may reimburse a pharmacy for distributing over-the-counter Plan B emergency contraceptive drug products to women who are 17 years old and older and who are Medicaid eligible; and,¶~~
~~(b) As a condition of reimbursement for over-the-counter Plan B emergency contraceptive drugs, Division may require that the pharmacy show proof that it has complied with Oregon Board of Pharmacy rules pertaining to the distribution of over-the-counter Plan B emergency contraceptive drugs.~~
Statutory/Other Authority: ORS 413.042, 414.065
Statutes/Other Implemented: ORS 414.065

AMEND: 410-121-0146

RULE SUMMARY: Amending language to allow large days supply for select MH carve out medications

CHANGES TO RULE:

410-121-0146
Dispensing Limitations ¶

(1) The Division of Medical Assistance Programs (Division) shall reimburse the pharmacy for dispensed medication the lesser of:¶
(a) The quantity indicated by the prescriber on the prescription;¶
(b) The quantity indicated by the Division dispensing limitations as outlined in this rule; or¶
(c) The quantity needed for Prescription Synchronization.¶
(2) The pharmacy may only dispense less than the prescribed quantity when the prescribed quantity exceeds the Division's dispensing limitations, or when a lesser quantity is needed for Prescription Synchronization.¶
(3) The pharmacy may, at the client's direction, dispense less than the prescribed quantity of a maintenance medication in order to align the refill dates if the client has received the same dose for two months or more.¶
(4) Unless otherwise specified in this rule, the Division shall not reimburse claims for medications exceeding a 34-day supply.¶
(5) Any pharmacy provider shall be reimbursed for up to a 100-day supply of preferred drugs in the following Standard Therapeutic Classes of medications:¶
(a) Ataractics, Tranquilizers - 07;¶
(b) Psychostimulants, Antidepressants - 11;¶
(6) Exceptions to the 34-day supply do not apply to claims for the following Standard Therapeutic Classes of medications. Claims exceeding a 34-day supply for these medications shall not be reimbursed under any circumstances:¶
(a) ~~Ataractics, Tranquilizers - 07;¶~~
~~(b)~~ Muscle Relaxants - 08;¶
(~~c~~b) CNS Stimulants - 10;¶
~~(d) Psychostimulants, Antidepressants - 11;¶~~
(~~e~~c) Amphetamine Preps - 12;¶
(~~f~~d) Narcotic Analgesics - 40;¶
(~~g~~e) Sedative Barbiturate - 46;¶
(~~h~~f) Sedative Non-Barbiturate - 47.¶
(~~6~~7) The Division shall allow reimbursement for more than a 34-day supply if the medication's original package size cannot be divided or when primary insurance (third party liability) pays for a larger day supply.¶
(~~7~~8) Except for medications listed in (5), claims for up to a 100-day supply of the following types of medications may be reimbursed to the Division's mail order pharmacy contractor, Indian Health mail order pharmacy providers, and 340B providers:¶
(a) A preferred PDL generic; and¶
(b) A generic drug not on the PDL, costing $10 per month or less.¶
(~~8~~9) Any pharmacy provider shall be reimbursed for up to a 365-day supply of family planning drugs.¶
~~(9) Maintenance Medications - Any pharmacy provider shall be reimbursed for up to a 100-day supply of select classes of medications if the client has received the same dose for two months or more. Maintenance medications shall be determined by the Division based on the following criteria:¶~~
~~(a) Have low probability for dosage or therapy changes due to side effects; and¶~~
~~(b) Are used most commonly to treat a chronic disease state and not considered curative or promoting recovery; and¶~~
~~(c) Are administered continuously rather than intermittently.¶~~
(10) Selected medications identified by the Division shall be limited to a 15-day supply for initial fills. These medications have been identified as having high side effect profiles, high discontinuation rates, or needing frequent dose adjustments.¶
(11) After stabilization of a diabetic, the pharmacy should provide a minimum of a one-month supply of insulin per dispensing.¶
(12) For vaccines available in multiple dose packaging, the Division shall allow a dispensing fee for each multiple dose. When vaccines are administered at the pharmacy, refer to Oregon Administrative Rule (OAR) 410-121-0185.¶
(13) Splitting prescriptions:¶
(a) For compounded prescriptions, bill components of the prescription separately. Third party payments for

compounded prescriptions must be split and applied equally to each component;¶
(b) The Division shall consider any other form of prescription splitting as a billing offense and take appropriate action as described in the General Rules (OAR 410 division 120).
Statutory/Other Authority: ORS 413.042, 414.065
Statutes/Other Implemented: ORS 414.065

AMEND: 410-121-0147

RULE SUMMARY: Amending language to clean up repealed rule references.

CHANGES TO RULE:

410-121-0147
Exclusions and Limitations ¶

(1) The following items are not covered for payment by the Division of Medical Assistance Programs (Division) Pharmaceutical Services Program:¶
(a) Except as provided in section (2) of this rule, drug products for diagnoses below the funded line on the Health Evidence Review Commission (HERC) Prioritized List of Health Services or an excluded service under Oregon Health Plan (OHP) coverage;¶
(b) Home pregnancy kits;¶
(c) Fluoride for individuals over 18 years of age;¶
(d) Expired drug products;¶
(e) Drug products from non-rebatable manufacturers, with the exception of selected oral nutritionals, vitamins, and vaccines;¶
(f) Active Pharmaceutical Ingredients (APIs) and Excipients as described by Centers for Medicare and Medicaid (CMS);¶
(g) Drug products that are not assigned a National Drug Code (NDC) number;¶
(h) Drug products that are not approved by the Food and Drug Administration (FDA);¶
(i) Drug products dispensed for Citizenship Waived Medical (CWM) client benefit type except when prescribed as an emergency medical service as defined by OAR 410-134-0003(3). The CWM benefit plan ended on June 30, 2023;¶
(j) Drug Efficacy Study Implementation (DESI) drugs (see OAR 410-121-0420);¶
(k) Medicare Part D covered drugs or classes of drugs for fully dual eligible clients (see OAR ~~410-121-0149~~, 410-120-1200 & 410-120-1210).¶
(~~L~~l) Drug products prescribed to establish or reestablish fertility or pregnancy;¶
(m) Drug products when prescribed for the treatment of sexual or erectile dysfunction;¶
(n) Drug products when prescribed for weight loss; and¶
(o) Drug products when primarily prescribed for cosmetic purposes or hair growth.¶
(2) The Division shall cover drug products for diagnoses below the funded line on the HERC Prioritized List of Health Services when such coverage is required through Early and Periodic Screening, Diagnostic and Treatment (EPSDT) as set forth in Chapter 410 Division 151.¶
(3) The Division shall cover drug products from non-rebateable manufacturers under any one or a combination of the following circumstances:¶
(a) Coverage is required through Early and Periodic Screening, Diagnostic and Treatment (EPSDT) as set forth in Chapter 410 Division 151;¶
(b) The drug is a vaccine; or¶
(c) The drug is an oral nutritional or vitamin selected for coverage by the Division.¶
(4) Effective on or after April 1, 2008, Section 1903(i) of the Social Security Act requires that written (nonelectronic) prescriptions for covered outpatient drugs for Medicaid clients be executed on a tamper-resistant pad in order to be eligible for federal matching funds. To meet this requirement, the Division shall only reimburse for covered Medicaid outpatient drugs only when the written (nonelectronic) prescription is executed on a tamper-resistant pad, or the prescription is electronically submitted to the pharmacy.¶
(5) Drugs requiring a skilled medical professional for safe administration shall be billed by the medical professional's office; unless otherwise specified by the Division.
Statutory/Other Authority: ORS 413.042, ORS 414.065
Statutes/Other Implemented: ORS 414.065

AMEND: 410-121-0155

RULE SUMMARY: Amending language to exempt IHS and Tribal pharmacies from AAAC survey process.

CHANGES TO RULE:

410-121-0155
Reimbursement ¶

(1) The Division shall pay the lesser of the provider's billed amount or the ingredient cost plus a professional dispensing fee.-¶
(2) The ingredient cost is established by the Division as follows:-¶
(a) The Oregon Average Actual Acquisition Cost (OR-AAAC) of the drug;-¶
(b) In cases where no OR-AAAC is available, the National Average Drug Acquisition Cost (NADAC);-¶
(c) In cases where no OR-AAAC and no NADAC is available, the Wholesale Acquisition Cost (WAC).¶
(3) For ingredient cost for trade name forms of multiple source products:-¶
(a) Except as provided in (3)(b) of this rule, the Division shall apply the OR-AAAC or NADAC of the generic form when a trade name form of a multiple source product is dispensed;-¶
(b) The Division shall pay the OR-AAAC or NADAC of the trade name form only when the prescribing practitioner certifies the trade version is required or when the brand drug is listed on the Division's Preferred Drug List.-¶
(4) The Division shall revise its OR-AAAC weekly. Pharmacies must make available to the Division or its contractor any information necessary to determine the pharmacy's actual acquisition cost of drug products dispensed to the Division's clients.-¶
(5) The OR-AAAC shall serve as the basis for reimbursement. Individual pharmacies, other than Indian Health Service, Tribal 638 or Urban Indian Health Program pharmacies, are required to participate in an OR-AAAC survey conducted by the Division or its contractor not more than one time per every 18 to 24-month period. Pharmacies that do not respond to OR-AAAC survey requests may be subject to disenrollment as providers for the Oregon Health Plan.-¶
(6) If a provider is unable to purchase a particular drug product at the OR-AAAC, the provider shall report this to the Division or its contractor for further review through a dispute resolution process. Providers may submit inquiries via telephone, facsimile, via electronic mail, or the contractor's secure web site: https://myersandstauffer.com/client-portal/oregon/:-¶
(a) The Division or its contractor shall respond to all inquiries or complaints within 24 hours and resolve the issue within five business days;-¶
(b) The pricing dispute resolution process shall include the Division or its contractor verifying the accuracy of pricing to ensure consistency with marketplace pricing and drug availability;-¶
(c) Price adjustments shall be made during the next weekly pricing update.-¶
(7) The Division restricts claims for hemophilia blood factors to Federally Supported Hemophilia Treatment Centers that are a Center of Excellence, as provided in OAR 410-120-0000.This restriction does not apply to clients with other insurances or Medicare in addition to OHP. The Federally Approved provider of factors, non-factor or gene therapy for people with bleed disorders is the Hemophilia Center at OHSU. Questions concerning bleeding disorder case management shall be directed to this provider by calling: 877-346-0640.¶
(8) No professional dispensing fee is allowed for dispensing pill splitters/cutters or diabetic supplies and glucose monitors.-¶
(9) Payment for pill splitters/cutters with a National Drug Code (NDC) number shall be reimbursed at the lesser of the billed amount or the ingredient cost and:-¶
(a) A practitioner prescription is required; and-¶
(b) The Division shall pay only for one pill splitter/cutter per client in a twelve-month period.-¶
(10) A prescription is required for glucose monitors and related diabetic supplies.-¶
(11) Payment for glucose monitors and related diabetic supplies billed with an NDC shall be reimbursed at a percentage of Medicare's rate for the HCPCS procedure code. The Division's reimbursement rates are listed in the Division's fee schedule located at: http://www.oregon.gov/OHA/healthplan/pages/feeschedule.aspx.
Statutory/Other Authority: ORS 413.042, 414.065
Statutes/Other Implemented: ORS 414.065