

Tina Kotek, Governor

August 28, 2024

Dear Oregon Health Policy Board,

Thank you for your [August 5, 2024 letter](#), in which you elevate two community advocacy letters presented to the Health Equity Committee (HEC) that you note require prompt attention and action from Oregon Health Authority (OHA) leadership.

Specifically, as stated in your letter, the [Gender Affirming Care \(GAC\) Letter](#) represents critical issues identified by community members regarding inequities for Oregon's Lesbian, Gay, Bisexual, Queer, Trans, Intersex, Asexual, and Two Spirit (LGBTQIA2S+) communities and recommendations to address those inequities. The [Ombuds Letter](#) reinforces the [OHA Ombuds Program's 2022 End-of-Year Report](#), which recommends critical action to reduce and ultimately eliminate health inequities impacting Oregon Health Plan (OHP) members.

My response to the recommendations in the Oregon Health Policy Board (OHPB) letter, the GAC Letter, and the Ombuds Letter are laid out in the Appendix. I will report back on progress made on addressing these recommendations, and invite OHPB to provide guidance on the frequency and focus of future updates.

Thank you for elevating the GAC Letter and the Ombuds Letter recommendations, which lay out essential strategies to help achieve OHA's 2030 health equity goal. It is imperative that OHA act swiftly to address these recommendations.

I look forward to sharing the progress made and appreciate our ongoing partnership on the issues raised.

Sincerely,



Sejal Hathi, MD MBA  
Director

## Appendix

### Response to the August 5, 2024 OHPB Letter Recommendations

I appreciate the offer for OHPB and its eleven committees, especially the HEC and MAC, to assist OHA with the work requested by community in the GAC Letter and Ombuds Letter. My responses to the specific recommendations laid out in the OHPB Letter are below.

- I support your recommendation that the Medicaid Advisory Committee (MAC) advise OHA and OHPB on ways to strengthen Medicaid member engagement. The MAC, recognizing the need for greater Medicaid member engagement, created a consumer experience subcommittee in 2021 to advise it in its work. More recently, OHA has committed to building on and prioritizing Medicaid member engagement by joining a seven-state learning collaborative that is working with national experts and community-based organizations to implement a new, federally required Beneficiary Advisory Committee (BAC) by July 2025. The BAC will work alongside the MAC in strengthening member engagement. Note that the OHA Ombuds Program reports quarterly to MAC and is involved in the formation of BAC. I look forward to receiving ongoing MAC recommendations on member engagement.
- I plan to request that the OHA Health Care Workforce Committee advise OHA and OHPB on ways to improve training, hiring and retention of GAC providers, and will ask that the committee works in partnership with the HEC on this effort. Specifically, I expect the Health Care Workforce Committee to launch conversations on this topic and report back to me with preliminary plans for recommendations by the end of 2024.
- I appreciate that OHPB is committed to discussing and reviewing Sexual Orientation and Gender Identity (SOGI) data as provided by OHA regarding access and barriers to GAC services. OHA will focus on ensuring people who need GAC services receive them; see last bullet point in this section about OHA's steps to ensure sufficient access to GAC exists for coordinated care organization (CCO) members.
- I fully support the HEC's work to host community-led conversations with LGBTQIA2S+ individuals and communities in policy development related to GAC, and to engage OHA's GAC Workgroup to support planning for these conversations.

- I hear your request that OHA leadership take immediate action to identify existing and future resources to resolve the gaps in services experienced by Oregon's LGBTQIA2S+ communities and OHP members. Of note, HB 2002 requires that the Department of Consumer and Business Services (DCBS) report to the legislature on commercial payers' network adequacy for GAC providers; it also requires that OHA monitor GAC provider network adequacy requirements for CCOs (HB 2002, Sec 22, and Sec 24 (5)). Following is a description of OHA's efforts to ensure GAC provider network adequacy for CCO members.

Per contract, CCOs are expected to identify, assess and monitor their current and anticipated membership needs/demographics, disease prevalence, and utilization of services, and to use this information to assess whether their network is sufficient, or identify provider network expansion needed. CCOs annually report to OHA how they're meeting network adequacy requirements. Although GAC is not specifically called out in this reporting, the requirement to ensure access to GAC as a part of the covered OHP benefit is clearly described in the CCO contract. Given the CCO network adequacy monitoring requirements apply to GAC, OHA expects CCOs to monitor and meet GAC needs via their network.

In addition, starting September 2024, OHA plans to pull claims information on GAC services, which will allow the agency to determine the provider types that commonly provide GAC and crosswalk those to each CCO's provider network report to determine if they have providers in network offering GAC. OHA will provide written feedback to CCOs regarding the presence—or lack—of GAC providers in their contracted provider networks. If deficiencies are identified, OHA will set an expectation for the CCO to remedy deficiencies, and OHA will monitor CCO progress towards that end.

OHPB could request DCBS and OHA to present relevant findings on GAC provider network adequacy at a future OHPB meeting. If requested, I will ensure OHPB receives an update on these efforts.

### **Response to the Gender Affirming Care Letter Recommendations**

OHA is committed to supporting GAC and to addressing the pressing health equity and social determinants of health needs for LGBTQIA2S+ communities. OHA acknowledges that GAC is a fundamental aspect of health care and a critical factor for the safety and thriving of trans, nonbinary, and Two Spirit individuals. As is noted in the GAC letter, GAC is widely recognized as accepted standard medical practice

by major professional organizations, and it is essential for Oregon to prioritize its availability. Expanding access to GAC is directly aligned with OHA's commitment to health equity and OHA's 2030 goal of eliminating health inequities, as highlighted in the [OHA Strategic Plan](#).

In 2023, the Oregon Legislature passed HB 2002, which requires Medicaid and private insurers to cover GAC, and DCBS and OHA to monitor network adequacy for GAC providers. OHA developed an internal GAC Workgroup to:

- Prioritize successfully implementing HB 2002, and
- Once implementation shifts towards ongoing maintenance and compliance, expand the workgroup's scope to address other needs of the community.

Four of the seven recommendations from the GAC Letter were prioritized for initial action:

- Codify statewide access to GAC into law or constitution, ensuring its protection from undermining changes to federal law.
- Actively engage LGBTQIA2S+ individuals and communities, such as the Oregon Trans Health Coalition and Gender Hive, in policy creation processes to ensure their voices are heard and needs are addressed. This could include community-led conversations that are convened and/or facilitated by HEC.
- Address ongoing issues related to access to GAC, including the lack of providers, lengthy wait times, and disparities in access between urban and rural areas, with targeted investment in developing the GAC workforce.
- Safeguard access to GAC for LGBTQIA2S+ youth, recognizing them as one of the most vulnerable populations at risk of political scapegoating and targeting.

The fourth recommendation in HEC's GAC letter, below, will be addressed via my request of the Health Care Workforce Committee (see above) to advise OHA and OHPB on ways to improve training, hiring and retention of GAC providers. As noted above, this will happen in partnership with the HEC. OHA's GAC Workgroup can collaborate and provide guidance on implementing this recommendation.

- Develop policies, in collaboration with trans and nonbinary individuals and communities, that ensure OHP contracted providers receive GAC training and are held accountable to providing equitable care, particularly in rural areas of

the state. This can be started by developing a provider network where peer-learning and support can happen and incentivizing culturally specific care through reimbursement.

OHA's GAC Workgroup is still discussing the remaining two recommendations, listed below, to determine how to best implement them:

- Encourage the Governor, OHA, and OHPB to issue public statements in unequivocal support of access to GAC.
- Revisit reimbursement policies around travel and lodging during surgery and recovery for rural patients in favor of covering travel and lodging up front to reduce financial barriers.

To ensure OHA's GAC Workgroup can fully delve into this work, I will explore finding additional staff support to address the recommendations. We want to honor the impact this work can have on staff and value wellbeing in the process; additional staff capacity can help address this impact.

### **Response to the Ombuds Letter Recommendations**

OHA's Ombuds Program plays a vital role in Oregon's healthcare system by daily advocating for OHP members and elevating their voice and experience into specific recommendations. In order to achieve a robust, responsive, and accountable healthcare system and OHA's 2030 health equity goal, OHA will carefully consider recommendations outlined in the Ombuds Program [2022 Year-End Report](#) (released in March 2023) and provide concrete action plans to integrate their feedback into policy and systems changes. The Ombuds Program also released its [2023 Year-End report](#) in June 2024, which reamplified previous findings and recommendations around language access and behavioral health network adequacy. I am committed to prioritizing these recommendations across OHA and our upcoming CCO procurement. To respond to the specific concerns raised in the letter, in order:

1. Member and advocate concerns provide essential input to inform OHA's work to achieve our 2030 goal. In fact, the development and implementation of a member and advocate engagement process is a key component of OHA's Strategic Plan. Specifically, OHA will establish a "healing-centered OHA Community Engagement Framework that brings community wisdom into the agency through realignment of power and accountability for agency action."

My expectation is that this framework will ensure member and advocate concerns are elevated and addressed in a timely manner.

2. I strongly agree with the need to strengthen OHA staff responses to community feedback consistently and in a timely manner. A key component of the Community Engagement Framework is to clearly lay out expectations for timely OHA staff responses.
3. OHA leadership fully supports the Ombuds Program and requested three additional bilingual Ombuds positions in the 2025-27 Agency Request Budget.
4. I agree with this recommendation as well to increase community representation in agency decision-making, and refer you to the bullets above on the development of our agency-wide Community Engagement Framework, which will examine and set standards for the same. I am also committed to amplifying instances where staff are already performing best practices.
  - i. For example, during the launch of the Early, Periodic Screening, Diagnostic, and Treatment (EPSDT) Program, a challenge emerged related to the provision of formula to medically complex children moved from Women, Infant and Children (WIC) offices to CCOs and OHA's fee-for-service Open Card Program. This transition made it harder for families of these children to access medically necessary formula. OHA therefore engaged impacted OHP members (generally, family members of OHP-eligible children with complex disabilities) advocates, and systems partners to obtain information on their experiences and to inform subsequent rulemaking changes and technical assistance to CCOs and Open Card providers to clarify expectations and improve care coordination and coverage for medically necessary formula.
5. I appreciate the recommendation to create a formal governance structure for the Ombuds Program and Ombuds Advisory Committee, and am pleased to report that:
  - a. OHA is in the process of creating a formal governance structure, including a charter, for the Ombuds Program and OHA to effectively and meaningfully incorporate member lived experience and perspectives. This will be presented at the MAC's October 30 meeting.
  - b. As mentioned above, OHA is in the process of establishing a Beneficiary Advisory Committee (BAC) by July 2025, which will comprise solely OHP

members, their families, and/or other caregivers. The BAC will function as an Ombuds Advisory Committee.

6. Following are updates to the issues of inequitable access to mental health services and substance use disorder treatment noted in the Ombuds report recommendations:
  - a. Network adequacy standards for CCOs: As of January 1, 2024, the CCO Quality Assurance team within OHA's Medicaid Division revised rule [410-141-3515](#) to include new time and distance standards, shifting focus to member outcomes rather than outlining a prescriptive process. The team continues to explore how they can effectively measure success, provide guidance, monitor compliance, and conduct quality assurance activities for these new standards. I will work with our Medicaid and Behavioral Health Division Directors to provide timely reporting before the end of this year on CCO and fee-for-service (Open Card) residential SUD network adequacy. This is critical for the agency to do prior to beginning the next CCO procurement.
  - b. Behavioral health care service capacity: The 2022 Ombuds Report highlights the challenges youth and families have when trying to access the right behavioral health service at the right time. OHA's Behavioral Health Division is using community-based investment approaches to expand the number of child psychiatrists and pediatricians in Oregon. In addition, the OHA Strategic Plan emphasizes building health care service capacity; one of the key outcomes is to "increase the number of people incentivized to pursue or sustain a career in behavioral health." OHA's Strategic Plan also lays out intentions to "increase the use of high-value care that is culturally and linguistically appropriate" by increasing the number of certified traditional health workers and ensuring appropriate language access for members.
  - c. Home-based treatments for individuals with disabilities and behavioral health needs: OHA, Oregon Department of Human Services (ODHS), and the Governor's Office collaboratively developed an approach and project plan that promotes equity and enhances access to Home and Community Based Services (HCBS) for people with a disability and mental health needs. Improving access to these services helps Oregonians thrive in the least restrictive setting (i.e., in their home or community). A multi-disciplinary team from both agencies began meeting in October 2023 to develop a Strategic Roadmap to improve access to

HCBS for people with behavioral health needs. The Strategic Roadmap was built with provider and community input and will be finalized in September 2024. The following are OHA-led initiatives that align with the Roadmap:

- i. Implement a more robust and enterprise-wide case/care management system: Increase data sharing capabilities across agencies and providers (this is in the planning stages).
- ii. Implement HCBS screening pilot: Promote collaboration between ODHS, OHA and hospitals to make assessments for level of care and placement more efficient and lessen the number of days a person remains in the hospital waiting for placement (this is underway).
- iii. Rollout a new comprehensive level of service determination assessment tool: Replace current OHA tool and align with the ODHS tool and process to support the Independent Qualified Agent (IQA) and HCBS 1915(i) waiver providers (the tool is currently being piloted).

If requested, OHA staff can provide an update on progress of these three initiatives at a future OHPB meeting.

- d. Housing and residential options in least restrictive settings: Please see the language directly above about HCBS.
- e. Culturally and linguistically appropriate health care: [The U.S. Department of Health and Human Services \(HHS\) issued three new federal rules](#) that are taking effect this summer. The rules protect rights, privacy and access related to reproductive health care, strengthen protections for people with disabilities, and further protect communities against health care discrimination on the basis of race, color, national origin, sex, age and disability. OHA is promoting the expectation in these rules with our partners, such as providers. Further, OHA has already begun work implementing these rules; for example, the Oregon State Hospital has a relatively new direct patient care team of providers who are completing certification for delivering GAC for transgender and gender diverse patients. In addition, the agency is actively working toward meeting the digital accessibility standards that will be required by April 2026.

I am also pleased to share that, over the past four years, OHA has worked to support meaningful language access and culturally responsive services, and has some successes to demonstrate in this area; examples include:

1. A \$60 add-on fee to providers for the cost of providing interpreter services at health care visits with fee-for-service (Open Card) OHP members;
  2. A CCO Incentive Metric to track progress providing meaningful language access to culturally responsive health care services;
  3. Enhanced provider payments for OHA-approved Culturally and Linguistically Specific Services (CLSS) behavioral health providers;
  4. Race, Ethnicity, and Language Disability (REALD) tracking to help understand who is most impacted by health inequities; and
  5. Improved OHA eligibility letters for OHP members who preferred a language other than English.
- f. Coordinated access to care: After conducting in-depth engagement with members and CCOs, the following rules were revised and implemented as of February 1, 2024, helping serve all OHP members with care coordination needs: [410-141-3500](#), [410-141-3860](#), [410-141-3865](#), 410-141-3870. The team focused on outlining CCO responsibilities related to coordinating, assessing, referring, and facilitating Medicaid-funded services. The rules also include new definitions for care coordination and care plans that better outline requirements.