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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED

08/19/2022 9:58 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Universally Offered Newborn Nurse Home Visiting Program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/27/2022 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:
Public Health Division
Rules Coordinator

HEARING(S)

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

DATE: 09/22/2022

TIME: 3:00 PM

OFFICER: Staff

ADDRESS: Microsoft Teams - Video/teleconference call

Due to COVID-19 public meetings are
being held remotely

Portland, OR 97232

SPECIAL INSTRUCTIONS:

Due to COVID-19, public meetings are
being held remotely. To provide oral
testimony during this hearing, please
contact

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Teams video conference. Alternatively,
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NEED FOR THE RULE(S)

The Oregon Health Authority (Authority), Public Health Division, Maternal and Child Health Section (MCH) is proposing Oregon Administrative Rule (OAR) changes for the Universally offered Newborn Nurse Home Visiting (NNHV) Program. OARs 333-006-0180 through 333-006-0190 will be adopted pursuant to the passage of Senate Bill 1555 (Oregon Laws 2022, chapter 94). SB 1555 requires the Authority, in collaboration with the Department of Business and Consumer Services (DCBS), to adopt rules that establish the amount of reimbursement to be paid by a health benefit plan or a methodology for reimbursing the cost of providing universal newborn nurse home visiting services.

ORS 433.301 requires the Authority to design the universal newborn nurse home visiting program to be flexible to meet the needs of the communities where the program operates and adopt criteria for universal newborn nurse home visiting services that must be covered by health benefit plans in accordance with ORS 743A.078.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 433.301 https://www.oregonlegislature.gov/bills_laws/ors/ors433.html

SB 1555 <https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/SB1555/Enrolled>

OHA PHD OAR Chapter 333, Division 6

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=5722>

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

The rule changes will impact Newborn Nurse Home Visiting Providers and Community Leads, health benefit plans and all families with newborns residing in Oregon. Rescinding

The Universally offered Newborn Nurse Home Visiting Program aims to promote healthy child development and support all Oregon families of newborns. In Oregon, and throughout the United States, systemic racism within health care and other social institutions has led to large racial and ethnic disparities in access to health care, poor health outcomes, and high mortality rates for women and children of color. Evidence-based home visiting programs can help reduce racial and ethnic health disparities by providing families with screenings, case management, and referrals that address a family's physical, mental, and health-related social needs. There is not yet evidence for Oregon's Newborn Nurse Home Visiting Program, but evidence from other home visiting programs suggest that programs need to culturally tailor home visiting and intentionally target racial equity goals to have greater impact on families of color.

These rules developed pursuant to SB 1555 hold health benefit plans accountable for covering the cost of Newborn Nurse Home Visiting services in full and at no cost to the family. Families will never receive a bill for Family Connects Oregon services. Establishing a methodology for reimbursement will support implementation of the program so that all families of newborns in Oregon are offered services. The program's aim is to improve child and family health and well-being at the population level by supporting evidence-based, culturally responsive, community-driven, and anti-racist approaches that can improve health and well-being outcomes for parents of color and their children. (<https://www.chcs.org/resource/addressing-racial-and-ethnic-disparities-in-maternal-and-child-health-through-home-visiting-programs/>)

MCH followed the guidance of House Bill 2993 (Oregon Laws 2021, chapter 463) in the formation of the Rules Advisory Committee (RAC). Representatives from health benefit plans, current NNHV providers, Early Learning Hubs, community-based organizations that serve communities of color, Tribal leaders and two members of the community have been invited to participate.

The Confederated Tribes of Warm Springs have engaged in some initial planning with the Central Oregon Early Adopter cohort. Over time, the Universally offered Newborn Nurse Home Visiting Program will offer services to all families caring for newborns, including foster and adoptive newborns. This program requires coordination with primary care providers and social service providers. Therefore, the proposed rule changes may impact all tribal health providers and tribal members.

As part of our government-to-government agreements, OHA Tribal Affairs sent a "Dear Tribal Leader Letter" to Oregon's nine federally recognized tribes on May 6, 2022, to invite participation in the Rules Advisory Committee and provide feedback on the rules. MCH has invited participation from culturally specific community-based organizations and home visiting clients in the Rules Advisory Committee. MCH has engaged with impacted communities through a steering committee for the Universally offered Newborn Nurse Home Visiting program.

MCH will engage affected communities through the Rules Advisory Committee and will continue to engage communities via the public comment period. MCH will continue to engage impacted communities as the Program is implemented. MCH will consider future rulemaking as we learn about how the Program impacts various populations.

FISCAL AND ECONOMIC IMPACT:

There is no direct fiscal or economic impact from the proposed rules to the public. The Program is offered at no cost to families. Certified providers seek reimbursement for the full costs of services provided to families and/or caregivers with newborns from private and public payors. SB 1555 directs health benefit plans to cover the full cost of the newborn nurse home visiting services without any cost-sharing, coinsurance or deductible. These rules establish a methodology for the payment but there is no additional fiscal impact to health benefit plans.

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) There is no fiscal impact to the Authority as a result of the proposed rules. There is no cost of compliance impact on units of local government or the public as a result of the proposed rules.

Local Public Health Authorities (LPHAs) and tribes that are home visiting service providers and Early Learning Hubs that are designated community leads would need to comply with the proposed rules, however there would be no additional costs as a result of the proposed rules.

(2)(a) The most direct impact of these proposed rules will be on health insurers, and no health insurers in Oregon employ 50 or fewer employees. Based on financial filings made to the Oregon Division of Financial Regulation, no health insurers meet the definition of a small business under ORS 183.310, because no health insurer is independently owned and operated.

(b) There is no anticipated cost of compliance related to reporting, recordkeeping or other administrative activities as a result of the proposed rules.

(c) There is no anticipated cost of compliance related to equipment, supplies, labor or increased administration as a result of the proposed rules.

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

Small businesses were not involved in the development of the rules because the Authority does not anticipate that these rules will impact small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

333-006-0180, 333-006-0190

ADOPT: 333-006-0180

RULE SUMMARY: OAR 333-006-0180 is adopted to define the requirements for reimbursement for Health Benefit Plans and the process for defining the reimbursement rate for the Universally offered Newborn Nurse Home Visiting Program

CHANGES TO RULE:

333-006-0180

Health Benefit Plan Reimbursement Requirements

(1) As used in OAR 333-006-0180 through 333-006-0190 the following definitions apply:¶

(a) "Billing guidance" means a document describing the claim submission process.¶

(b) "Budget standards" means a document describing standardized and allowable expenses included in the determination of the case rate for newborn nurse home visiting services, including Community Lead Service Requirements outlined in OAR 333-006-0050 and Newborn Nurse Home Visiting Provider and Service Requirements outlined in OAR 333-006-0100 through 333-006-0130. ¶

(c) "Case rate" means a flat fee paid for newborn nurse home visiting services. The case rate includes all newborn nurse home visiting services, including Community Lead Service Requirements outlined in OAR 333-006-0050 and Newborn Nurse Home Visiting Provider and Service Requirements outlined in OAR 333-006-0100 through 333-006-0130. The case rate is also known as a bundled claim.¶

(d) "Single support visit rate" means a one-time flat fee paid when a support visit, as defined in OAR 333-006-0010(16), is completed prior to a comprehensive newborn nurse home visit and the comprehensive newborn nurse home visit is subsequently not completed.¶

(e) "Template" means the document the Authority shall provide to each newborn nurse home visiting provider and community lead in order to document costs related to providing newborn nurse home visiting services. The template will reflect the budget standards.¶

(2) Health benefit plans must reimburse the newborn nurse home visiting provider at the case rate for these services as defined in ORS 743A.078. ¶

(3) The case rate and the single support visit rate for January 1, 2023 to June 30, 2023, will be determined using the average cost per newborn served as reported by current service providers and reviewed by the Authority and a third-party consultant. ¶

(4) The case rate and the single support visit rate on July 1, 2023, and thereafter shall be determined by a cost study coordinated by the Authority in consultation with an advisory committee on a biennial schedule. The case rate will be effective on July 1 of odd numbered calendar years. ¶

(a) The advisory committee will advise the Authority on development of the case rate. Documents used to determine the case rate will include but are not limited to the budget standards, the template and the billing guidance. The advisory committee will include representatives of health benefit plans, newborn nurse home visiting providers and community members. The advisory committee shall not exceed 10 members. Members shall be selected via an application process developed by the Authority.¶

(b) Each newborn nurse home visiting provider and community lead must participate in the biennial cost study. The Authority will provide templates to newborn nurse home visiting providers and community leads. ¶

(c) The Authority will review newborn nurse home visiting provider and community lead services budgets to determine compliance with budget standards as determined by the Authority and notify providers of any non-compliance with standards.¶

(d) Newborn nurse home visiting providers and community leads shall request a deviation from budget standards based on a compelling modification needed in the designated community. Such a request must be made in writing.¶

(e) The Authority shall determine which budgets meet standards and are included in the cost study. ¶

(f) At the conclusion of the cost study, the Authority shall determine the case rate and publish it on Oregon's Universally Offered Newborn Nurse Home Visiting Program website:
<https://www.oregon.gov/oha/PH/HEALTHYPEOPLEFAMILIES/BABIES/HOMEVISITING/Pages/Family-Connects-Oregon.aspx>.
Statutory/Other Authority: ORS 413.042, ORS 433.301, ORS 743A.078
Statutes/Other Implemented: ORS 433.301, ORS 743A.078

ADOPT: 333-006-0190

RULE SUMMARY: OAR 333-006-0190 is adopted to define reimbursement methodology for Health Benefit Plans for the Universally offered Newborn Nurse Home Visiting Program

CHANGES TO RULE:

333-006-0190

Reimbursement Methodology

The health benefit plan reimbursement methodology for newborn nurse home visiting services is a claim invoicing process.

(1) If a health benefit plan requires credentialing as a prerequisite to claim submission, health benefit plans must credential Authority-certified newborn nurse home visiting providers. Newborn nurse home visiting providers must be credentialed as an organization. The organization also serves as the rendering provider.

(2) A bundled claim submitted for the newborn nurse home visiting services case rate must include, at a minimum, a comprehensive newborn nurse home visit, meeting the requirements of OAR 333-006-0120(5) and (6). The bundled claim may include one to two support visits that occur after the comprehensive visit and may include one support visit that occurs prior to a comprehensive visit.

(a) If a support visit is completed prior to a comprehensive newborn nurse home visit and the comprehensive newborn nurse home visit is subsequently not completed, the newborn nurse home visiting provider must submit a claim for the single support visit rate.

(b) Claims must follow the Authority's billing guidance for newborn nurse home visiting services and generally accepted medical services billing standards.

(3) All services provided as part of the Universally Offered Newborn Nurse Home Visiting Program shall be documented in the client's medical record by the home visitor who provides newborn nurse home visiting services on behalf of a certified newborn nurse home visiting services provider.

(4) Claims for newborn nurse home visiting services to health benefit plans with no contract in place with newborn nurse home visiting providers must be submitted as an out of network claim by the provider.

(5) Single case out of network claims must be reimbursed by health benefit plans in the amount of the case rate and per the billing procedures described in OAR 333-006-0180 through 333-006-0190.

(6) OAR 333-006-0180 through 333-006-0190 apply to health benefit plans not subject to ORS 433.301 who voluntarily provide reimbursement for newborn nurse home visiting services.

(7) Health benefit plans must reimburse at the case rate for newborn nurse home visiting services conducted via telemedicine pursuant to OAR 333-006-0120 and ORS 743A.058.

Statutory/Other Authority: ORS 413.042, ORS 433.301, ORS 743A.078

Statutes/Other Implemented: ORS 433.301, ORS 743A.078