

Chair Monnes Anderson,

Members of the Senate Healthcare Committee:

Re: Support for SB 309

One in Four Chronic Health and the Organizations below urge your support for SB 309 which would permanently codify into Oregon statute the current language of the Affordable Care Act (ACA) which prohibits discrimination in benefit design or implementation in health insurance plans offered through state and federal exchanges, based on an individual's age, expected length of life, race, color, national origin, sex, gender identity or sexual orientation, present or predicted disability, degree of medical dependency, quality of life, present or predicted diagnosis, disease or health condition.

The ACA has allowed Oregon to expand health insurance coverage to more than 215,000 people, with the average cost of premiums declining by 2.5% across all plans (exchange and non-exchange). We seek to protect the access to healthcare and treatment Oregonians have now, and ensure these protections in the future.

We have a growing number of national and local examples where insurers have sought to deny patients equal access to treatment based on their estimated life expectancy, or placed treatments for entire categories of patients on high copay or coinsurance specialty tiers.

- In February, the U.S. Department of Health & Human Services (HHS) ruled that placing, "most or all drugs that treat a specific condition on the highest cost tiers" is a "potentially discriminating process".¹
- In Florida, the AIDS Institute and the National Health Law Program filed complaints with Department of Health and Human Services Office for Civil Rights alleging that Florida exchange plans place all HIV/AIDS medications on the cost hi
- gh cost sharing specialty tiers. We have seen similar problems in 12 states including; California, New Jersey, Utah, Michigan, South Carolina, Pennsylvania and Louisiana².

¹Final HHS Notice of Benefit and Payment Parameters for 2016, Centers for Medicare & Medicaid Services <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-02-20.html>

² AIDS Patients Face Price Discrimination in Some Obamacare Plans, Washington Post 1/28/15
<http://washpost.bloomberg.com/Story?docId=1376-NIWCXQ6TTDSP01-3NR8ORVMJFA968AJC2PUQQ2117>

- Patient advocates in Connecticut recently joined with the New Haven Legal Assistance Association to show state officials how current prior authorization criteria for access to some hepatitis C medications violates state and federal laws.
- Analysis of health plans by health care consultants Avalere shows medications for specific conditions are increasingly being placed on specialty tiers at greater levels than last year, these including: Multiple Sclerosis 51% up from 42% last year, Cancer 47% up from 31% last year and HIV, 30% up from 20% last year.³
- In 2014 in Oregon, the Health Evidence Review Commission (HERC) proposed regulations denying certain cancer treatments to patients based on their life expectancy. And more recently, the HERC struggled over its authority to deny curative, life saving treatment to an entire category of Oregonians living with Hepatitis C.

By placing the ACA non-discrimination language squarely into Oregon law, patients and their families will be protected from discriminatory benefit designs through 2017 and beyond. The bill does not mandate any specific form of benefit design or cost sharing strategy, but it does insure that one patient group cannot be singled out for disadvantageous treatment over another and codifies the rights of Oregonians and the goals of the Triple Aim.

Sincerely,

³ Avalere PlanScape Analysis of Prescription Drug Tier Placement and Cost Sharing in Health Insurance Exchange Plans, Avalere, February 2015 http://go.avalere.com/acton/attachment/12909/f-017c/1/-/-/-/20150211_Avalere%20Planscape%202015_Class%20Tiering%20Analysis.pdf