



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

January 19, 2016

Representative Cedric Hayden
900 Court Street NE H379
Salem OR 97301

Re: Service area change rule—OAR 410-141-3040

Dear Representative Hayden:

You asked for an analysis of subsection (3) of OAR 410-141-3040, filed by the Oregon Health Authority with the Secretary of State with an effective date of January 7, 2016. The rule permits the authority to solicit bids from existing coordinated care organizations (CCOs) to serve members who reside in an area already served by another CCO if the authority determines that there is a “service area need.” Subsection (3) of the rule provides that a service area need exists if the authority determines that “a CCO would no longer be serving all or a portion of its service area.” The rule contains no criteria for making that determination. Therefore, the authority could decide not to renew a contract with a CCO or to contract with the CCO to serve a smaller area. A CCO could request to serve a smaller area, or the authority could decide that a CCO does not have the capacity to serve all of the members in its service area. In other words, it appears that the rule gives the authority complete discretion in determining that a CCO would no longer be serving all or a portion of its service area.

We hope this information is useful to you. Please do not hesitate to contact us if you have further questions or concerns.

The opinions written by the Legislative Counsel and the staff of the Legislative Counsel’s office are prepared solely for the purpose of assisting members of the Legislative Assembly in the development and consideration of legislative matters. In performing their duties, the Legislative Counsel and the members of the staff of the Legislative Counsel’s office have no authority to provide legal advice to any other person, group or entity. For this reason, this opinion should not be considered or used as legal advice by any person other than legislators in the conduct of legislative business. Public bodies and their officers and employees should seek and rely upon the advice and opinion of the Attorney General, district attorney, county counsel, city attorney or other retained counsel. Constituents and other private persons and entities should seek and rely upon the advice and opinion of private counsel.

Very truly yours,

DEXTER A. JOHNSON
Legislative Counsel

By
Lorey H. Freeman
Senior Deputy Legislative Counsel