



February 5, 2016

House Committee on Health Care
Representative Greenlick, Chair

Dear Chair Greenlick, Vice-Chair Nosse, Vice-Chair Hayden, Members of the Committee;

We are writing in support of HB 4141 for the following reasons:

- The Oregon Health Authority (OHA) filed a temporary rule in July, 2015 regarding service area changes for a Coordinated Care Organization (CCO). The purpose of the rule was to articulate a process to follow when there is a service area change due to a CCO withdrawing from an area. However, the OHA expanded the language to give itself authority to change a CCO's service area if it identified a deficiency negatively impacting member health or safety not addressed by law or the CCO contract. CCOs requested an example of a situation not already addressed by law or contract. The OHA was unable to provide any example.
- In November, 2015 the OHA expanded their authority by changing the language to "if the authority identifies an actual or prospective deficiency in capacity that may negatively impact enrollees' health or safety" without any additional specific criteria.
- CCOs requested removal of this language in the original, and second, temporary rules.
- The OHA issued its final rule on January 7th, making it effective retroactively to December 27, 2015, the date the temporary rule expired. The OHA also issued a letter claiming it addressed the CCOs' concerns by removing the section. However, review of the final rule shows that the OHA merely revised and consolidated the language to be part of a different section. A Legislative Counsel opinion requested by Senator Shields agrees that the language in the final rule still gives the OHA broad authority to initiate changes to a CCO's service area.
- Specifically for FamilyCare:
 - The OHA used the November language to solicit applications from CCOs to take over FamilyCare's service area in case we didn't sign the 2106 contract, despite assurances that we were developing our 2016 budget.
 - Although the 2016 contract amendment was signed and agreed to by both FamilyCare and the OHA by December 31, 2015, the OHA is continuing to accept applications from other CCOs to take over our service area.

We believe the CCO contract includes sufficient remedies and processes for the OHA to address any concerns about a CCO's ability to serve its members. We believe passage of HB 4141 is necessary to protect CCOs from arbitrary actions by OHA to make changes to service areas outside of the processes outlined in the contract. The language in HB 4141 is based on language submitted in public comment by multiple CCOs during the rulemaking process.

Thank you for the time to provide this testimony today.

Cindy Becker
VP, Community & Government Relations