



February 11, 2016

TO: Senator Laurie Monnes Anderson, Chair
Senate Committee on Health
FR: Bob Joondeph, Executive Director
RE: SB 1568

Disability Rights Oregon (DRO) is Oregon's federally-funded *Protection and Advocacy* office that provides legal-based advocacy services to Oregonians with disabilities. Part of our work is to assure that Oregonians with disabilities have equal access to needed health care coverage and services.

The Affordable Care Act (ACA) may be the most significant protection against disability discrimination since passage of the ADA in 1990. The ADA permits health care insurance to discriminate against people with disabilities in certain circumstances. The ACA explicitly prohibits that discrimination. 45 CFR 156.125(a) implements 42 U.S. Code § 18116. It states:

An issuer does not provide EHB [Essential Health Benefits] if its benefit design, or the implementation of its benefit design, discriminates based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions.

Federal law now protects people with disabilities from discrimination in recognition of the many studies finding that these individuals constitute a distinct minority group that continues to experience poor health outcomes for conditions unrelated to their disability. Equal access to health care not only means having accessible medical offices, examining tables and medical transportation, but also insurance coverage that does not discount the value and quality of a person's life.

SB 1568 reiterates federal regulation by prohibiting discrimination based on age, expected length of life, present or predicted disability, degree of medical dependency or quality of life in the determination of medical services covered by the state medical assistance program, in coverage under a medical retainer practice and in the issuance of health benefit plans.

The bill does not presently include the added language in 45 CFR 156.125(c) that "nothing in this section shall be construed to prevent an issuer from appropriately utilizing reasonable medical management techniques." Insurers are allowed to rely upon relevant clinical evidence base and established reasonable medical management techniques to

determine the frequency, method, treatment, or setting for coverage of a recommended preventive health service.

For many years, I was a member of the Evidence Based Guidelines Subcommittee of the Health Evidence Review Committee. As a member, I participated in decisions of what services and conditions would be covered by the Oregon Health Plan. The OHP does not have unlimited resources and must determine its prioritized list of conditions and services wisely and without discrimination against any protected class. When it is functioning properly, this process is akin to the “reasonable medical management techniques” permitted by federal law.

DRO supports SB 1568 as being necessary for the protection of Oregonians with disabilities and is comfortable with an amendment that incorporates, in line with federal law, recognition of clinically-based, reasonable management techniques.

Thank you for this opportunity to testify.