

February 11, 2016

Senate Health Care Committee
Oregon State Capitol
900 Court Street NE, Room 453
Salem, Oregon 97301

Re: Senate Bill 1568

Dear Chair Monnes Anderson and Members of the committee:

Kaiser Permanente (KP) fully supports protections in the Affordable Care Act (ACA) that ensure our members are able to access medically appropriate care and coverage, including protections around benefit designs that do not discriminate 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. We oppose Senate Bill 1568, however, because it exceeds the scope of the ACA and is overly broad.

Currently, the ACA and implementing regulations prohibit non-grandfathered group health plans and issuers of small group and individual coverage from discriminating in Essential Health Benefit (EHB) design and the implementation of the benefit design 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" (45 C.F.R. § 156.125). ACA regulations expressly allow non-grandfathered group health plans and issuers to appropriately utilize reasonable medical management techniques for EHBs coverage (45 CFR §156.125(c)).

Senate Bill 1568, as written, would broaden these ACA requirements in several ways: (1) it broadens the requirements to include large group health plans, certified retainer medical practices, other association plans, and even insurance producers; (2) the "non-discrimination" provisions of the ACA apply to Essential Health Benefit plan design and implementation, while the SB 1568 provisions target services and other aspects of plan-related activities, which would have a very different application; and (3) SB 1568 does not contain provisions in federal law that protect an issuer's ability to appropriately utilize reasonable medical management techniques.

Senate Bill 1568 may restrict issuers' ability to comply with ACA mandates. For example, SB 1568 is drafted so generally, it could prohibit group health plans and issuers from complying with ACA preventive services mandate recommendations from the United States Preventive Care Task Force rated "A" or "B" that require coverage of certain items and services based on age of the individual. These guidelines make extensive use of age as a factor in determining what preventive services are medically appropriate, such as the age to begin colonoscopy and breast cancer screenings.

Finally, the bill would prevent the application of certain ACA requirements. SB 1568 would prohibit non-grandfathered group health plans and issuers from considering age for determining eligibility for dependent children up to age 26 consistent with ACA regulations (45 CFR

§147.120). The language of SB 1568 could prohibit group health plans, issuers, and insurance producers from having discussions with individuals 65 or older about their options for Medicare coverage rather than for individual market coverage. SB 1568 could even interfere with the ability of non-grandfathered group health plans and issuers to comply with the requirement for fair health insurance premiums under the ACA that allows rating based on age (45 CFR § 147.102(a)(1)(iii)).

Senate Bill 1568 exceeds the scope, and may prevent the application, of certain ACA requirements, and is wholly unnecessary. Federal law adequately and appropriately regulates and ensures nondiscrimination in health plan benefit design and implementation while allowing for the appropriate utilization of reasonable medical management techniques.

Thank you for the opportunity to provide testimony on this important issue.

Best regards,

A handwritten signature in black ink, appearing to read "Daniel J. Field". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Daniel J. Field, JD
Executive Director
Community Benefit & External Affairs