



# Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Division of Financial Regulation

350 Winter St. NE, Room 410

P.O. Box 14480

Salem, OR 97309-0405

March 15, 2017

Representative Mitch Greenlick  
Chair, House Committee on Health Care  
Oregon Legislative Assembly

Re: -1 Amendment to House Bill 2341

Dear Chair Greenlick:

Thank you for your consideration of the -1 amendment to House Bill 2341. The amendments reflect feedback received after vetting the introduced version of the bill with our stakeholder workgroup. That vetting process identified areas that did not either fully meet the intent of the bill, which is to reconnect with federal law, regulations and guidance, or were not the result of federal laws or regulations issued after the bill had been drafted. To assist the committee in deliberating on these rather technical changes to the Insurance Code, we have submitted this letter on the record.

In sum, the proposed -1 makes the following changes:

- **Hearing aids** – The introduced bill removed the age limit on hearing aids provided under ORS 743A.141(b). This change was originally proposed based on somewhat obscure federal guidance that was never formally issued. Several carriers expressed concern that this change did not accurately reflect reconciliation of Oregon statute with abundantly clear federal guidance. Since we do not anticipate concrete federal guidance on this matter we recommend removing provisions related to hearing aids, resulting in no change to the current mandate.
- **Mental health parity in the adverse benefit determination definition** – Mental health parity (MHP) is not currently a part of the adverse benefit determination definition under ORS 743B.001, but the introduced bill would add it. After vetting this proposed change with our stakeholder group and upon conducting additional research on whether this change was necessary or provided added clarity beyond the existing MHP regulatory framework, we concluded that adding this language to the definition of adverse benefit determination was not necessary. Further, carriers expressed that the Division of Financial Regulation (DFR) has put forth a lot of effort into explaining its interpretation of how state and federal laws relating to mental health intersect and that they do not believe this change brings any added clarity or strength to the issue.

Finally, DFR has been reinforcing these protections by multiple other means such as guidance, rulemaking, and years of continuous market conduct activity. As result, we

recommend removing mental health parity language to the definition of adverse benefit determination.

- **Small employer definition** – The 114<sup>th</sup> Congress recently passed the 21st Century Cures Act,<sup>1</sup> which touched health care in myriad ways. Among changes affecting state laws is a change that now permits certain small employers to contribute to a health savings account and for their employees to be able to use those funds to purchase individual coverage. Previously, funds could only be applied towards the purchase or cost sharing under a small group health insurance plan. The definition of small employer in state law currently conflicts with this new provision described under the federal tax code.<sup>2</sup> Through the amendment, we have proposed aligning ORS 743B.011(1)(a) with the change relating to health savings accounts that have resulted from the Cures Act.
- **Short-term policies** – Recent federal regulations require that short term health insurance policies can be no longer than three months, including renewals. Various reference in the Insurance Code currently provide for a period longer than three months. We recommend changing the length of short term health insurance policies reference in the Insurance Code to three months in order to align with federal requirements.

Again, thank you for your consideration. Please feel free to contact us if you have any questions.

Sincerely,



Richard Y. Blackwell  
Policy Manager

Cc: Representative Rob Nosse, Vice-Chair, House Committee on Health Care  
Representative Cedric Hayden, Vice-Chair, House Committee on Health Care  
Representative Teresa Alonso Leon  
Representative Knute Buehler  
Representative Jodi Hack  
Representative Bill Kennemer  
Representative Alissa Keny-Guyer  
Representative Sheri Malstrom

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<sup>1</sup> Pub. L. 114-255

<sup>2</sup> Specifically, 26 U.S.C § 9831(d).