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The Honorable Rob Nosse, Chair  
House Behavioral Health and Health Care Committee  
900 Court St. NE  
Salem, Oregon 97301

**SUBJECT:** Basic Health Program November update

**Background:** During the pandemic, Oregon experienced record high insurance rates across the state, with individuals 138-200% Federal Poverty Level (FPL) experiencing the most notable gains. The Basic Health Program (BHP) will ensure that this population, which traditionally churns on and off Oregon Health Plan (OHP) due to fluctuations in income, stays consistently covered by their Coordinated Care Organization (CCO). The program will launch in July 2024, and over the course of the first few years of implementation, cover an estimated 55,000 individuals currently covered by OHP; 35,800 individuals currently covered by Marketplace plans, and 11,300 individuals who are currently uninsured.

On September 29, 2023, Oregon Health Authority (OHA) Director Dave Baden provided an update to the House Behavioral Health and Health Care Committee regarding the BHP authorized under HB 4035 (2022). The update reminded committee members that the BHP, regulated under Section 1331 of the Affordable Care Act, covers individuals up to 200% FPL who would otherwise be eligible for Marketplace coverage. To establish a BHP, states must apply by submitting a BHP Blueprint to the Centers for Medicare and Medicaid Services (CMS). Once approved, states receive federal funding to cover BHP-eligible enrollees. The Oregon Health Policy Board voted unanimously on September 12, 2023 for Oregon to be the third state in the country to submit a Basic Health Program Blueprint. The Blueprint outlines a BHP administered by CCOs that covers the CCO-administered OHP benefit package at no cost to the enrollee.

OHA wishes to provide the following updates to the committee on work that has been underway since the Sept. 29 presentation.

**Permanent Medicaid Expansion (PME).** In addition to applying for Section 1331 authority to administer a Basic Health Program through CCOs, OHA is applying to permanently expand Medicaid up to 200% FPL for individuals exempt from CCO auto-assignment. This will ensure that individuals exempt from CCO auto-assignment are able to choose between Fee-for-Service (FFS) and CCO coverage up to 200% FPL. CMS has indicated they are working toward approval of the PME and see no major barriers. OHA is working across programs to identify priority needs from CMS, including requesting written confirmation that the PME is moving forward towards approval. CMS has indicated

willingness to send written confirmation of this nature, with the appropriate caveats that final approval will not be shared until special terms and conditions are finalized.

**Trust Fund Workgroup.** HB 4035 authorized the creation of a BHP Trust Fund. This Trust Fund will accept federal funds to administer the Basic Health Program. Management of the BHP Trust Fund will require new OHA and Oregon Department of Human Services (ODHS) workflows to send anticipated enrollment figures to CMS and reconcile enrollment on a quarterly basis. The Trustees identified in the Blueprint—all of whom hold leadership positions at OHA and ODHS—convened in October to further clarify the role of trustees and offer greater information regarding federal regulation of Trustees and the Trust Fund at large. A BHP Trust Fund Workgroup consisting of OHA and ODHS staff are working to develop Trust Fund management workflows and structures to bring to the Trustees for review.

**Rulemaking.** The first draft of BHP and PME rules have completed DOJ review. DOJ edits are being finalized by the OHA PME and BHP teams and will be sent to Tribal Affairs for a final review in November. Once approved by Tribal Affairs the agency will send a Dear Tribal Leader letter to the Oregon Tribes, this will go out no later than h 12/1/23. A joint BHP/PME RAC will be held the first week of February. RAC member recruitment will proceed in October as previously planned to ensure thorough community engagement.

**CCO engagement.** The BHP team continues to meet monthly with CCOs to discuss topics of interest related to Temporary Medicaid Expansion, the BHP and the PME. The table was held on 9/26, and offered updates to the rulemaking and contracting timelines, details regarding the enrollment policy, summaries from recent rate setting meetings, and a decision regarding the treatment of the Healthier Oregon/BHP overlap population. OHA is also holding a monthly meeting with CCOs focused on rate-setting. The OHA team recently attended the monthly CCO Operations Collaborative meeting with CCOs to present a DOJ opinion on SHARE initiative that excess BHP income is legally required to be subject to SHARE obligations. CCOs expressed significant concern with the opinion and the BHP team is working closely with leadership and DOJ to determine the best course of action moving forward.

**Carrier engagement.** The Governor's office, OHA and Department of Consumer and Business Services (DCBS) leadership directed staff to explore the operational feasibility of mitigation strategies using state or other non-federal funds, with the goal of developing a "stopgap" strategy for 2025-26 until a state-based Marketplace (SBM) is in place in 2027. Note: with an SBM, it's possible that additional options for federal funding could come back into play for 2027. OHA and DCBS held a Carrier Table on 10/9 to discuss feasible state funded subsidy solutions. The 10/9 Carrier Table meeting focused on the two subsidy concepts still under consideration for implementation beginning in plan year 2025: a visible and an invisible subsidy. Carriers expressed interest in continuing to look into these strategies and were particularly interested in strategies that would reduce rates at point of filing which keeps the subsidy invisible to consumers. OHA highlighted that there may be possible rate filing issues with this strategy but will be meeting with DFR's actuarial team and the carrier actuaries to discuss these potential issues and brainstorm potential solutions.