

November 6, 2023

Good afternoon Chair Nosse and Members of the Committee,

My name is Laura Rich, and I am here today on behalf of AHIP, America's Health Insurance Plans. Our members are Oregon's health insurance plans, all of whom would be regulated under the Oregon Health Authority's Sustainable Cost Growth Target Plan. As health plans, we share a core objective of prioritizing affordability and accessibility for those we serve. We also share the Sustainable Cost Growth Target Program's goal of increasing affordability for Oregonians.

When the Sustainable Cost Growth Target Program was signed into law, the nation was in an extended period of low inflation, with national trends well below the 3.4% target for most of the past 20 years. That landscape changed dramatically during the pandemic, and inflation climbed to nearly 7% through 2021-22, and currently hovers near 4%. This continues to have significant impact across the health ecosystem and has created challenges for health insurers, as costs continue to rise across the board. The changes to the health care ecosystem since the pandemic have resulted in insurers facing high input costs for both medical and pharmacy care while seeing their own fixed costs increase.

Amid this uncertain environment, and as you heard in the presentation, the Oregon Health Authority (OHA) is developing its process for evaluating the reasonableness of cost growth, requiring performance improvement plans (PIPs) and imposing penalties, with the agency socializing proposed approaches with the Advisory Committee this summer and fall, and convening a formal RAC in early 2024. Our member companies have significant concerns about the proposals proposed by OHA, and we worry that they may ultimately result in greater cost growth and fewer insurance options for consumers if not carefully crafted.

Milliman recently reviewed OHA's penalty development process and found several challenges with the structure of the Cost Growth Target Program that should be addressed as OHA looks to implement a financial penalty. These include:

- the program's failure to credit good years;
- the "all or nothing" structure for determining reasonableness of cost growth;
- the differential treatment of providers and payers, with the potential for double penalization;

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- the time lag between health plan operational decisions and OHA's review of cost growth justification;
- the lack of "guardrails" for capital adequacy;
- that the benchmark is not indexed to inflation;
- and the combination of lines of business such that growth due to changes in business mix is not addressed.

Milliman also noted several financial and nonfinancial impacts of penalties that should be addressed in penalty development, including:

- the potential to disincentivize new improvement initiatives,
- potential avoidance of investments in health outcomes and health equity,
- reduced competition, transferring risk to providers, limits or reductions in covered benefits, consolidation of health plans and providers, and financial penalties impacting the ability to meet surplus requirements.

I want to add that the Milliman report I am referencing has been shared with OHA and DFR and am happy to share it with the committee members as well.

We believe that many of these challenges can be addressed if OHA develops a thoughtful and clear approach to performance improvement plan and penalty development, including the following:

1. We ask for guidance on the standards under which a payer or provider's cost growth will be evaluated as part of the "reasonableness" determination.
2. We encourage OHA to ensure that the cornerstone of the PIP process involves working with a payer and provider on addressing costs within their control with clear direction on how OHA believes that should occur.
3. We believe that OHA should move forward with penalties only if a payer or provider has not adhered to the PIP. Any penalties imposed under the program must have a reasonable upper limit and be designed to avoid market disruption.

The current PIP and penalty proposals from OHA do not provide this clarity or certainty and will have a significant impact on consumers.

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We understand the enormous challenge in front of OHA as it works to develop a PIP and penalty process that is fair, transparent, and designed to meet the goals of the program and We want to work collaboratively to find a path forward. AHIP encourages OHA to use its upcoming advisory committee and rulemaking advisory committee meetings to develop rules that provide the requested clarity and certainty for payers and providers regulated under the program, and addresses the many challenges identified in the Milliman Report.

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