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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 836
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE REGULATION

FILED: 10/22/2026 2:19 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Repeal of Primary Care Provider Assignment OAR 836-053-0028

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/24/2026 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT:
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dfr.rules@dcbs.oregon.gov
350 Winter St NE
Salem, OR 97301

Filed By:
Karen Winkel
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/17/2026
TIME: 10:00 AM
OFFICER: Lisa Emerson

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 503-446-4951
CONFERENCE ID: 33203938
SPECIAL INSTRUCTIONS:
This is a virtual meeting via Microsoft Teams:

Meeting ID: 298 834 589 726 193
Passcode: yc6NU3v3

Note: Public comments are public records.

NEED FOR THE RULE(S):

The department must repeal OAR 836-053-0028 because HB 4040 (2026) Section 26, repealed ORS 743B.221, Assignment of beneficiaries to primary care providers; rules. ORS 743B.221 was enacted by SB 1529 (2023) and required the Department of Consumer and Business Services (DCBS) to adopt rules prescribing a methodology for insurers to assign and attribute a primary care provider (PCP) to their enrollees if an enrollee does not choose a PCP within 90 days of joining the plan. The statutory authority for the rule has been repealed, therefore, the rule must be repealed.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website: https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

The department must repeal OAR 836-053-0028 because the statutory authority for the rule's enactment was repealed by HB 4040 (2026) effective April 7, 2026. The proposed repeal of these rules will not affect DCBS's operations. Instead, the repeal of the rule will remove an obsolete, non-operational rule.

FISCAL AND ECONOMIC IMPACT:

The proposed repeal of this rule will not have any effect on DCBS's operations and will have no fiscal or economic impact on small business. Based on financial filings made to DFR, no insurers meet the definition of a small business under ORS 183.310, because no insurer is independently owned and operated. This rule change merely removes non-operational language from the administrative rules.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Based on information currently available to DCBS, the proposed repeal of this rule will not have a fiscal or economic impact on state agencies, local government units, nor the public.

(2)(a) The rule being repealed applies to health insurance carriers. Based on financial filings made to DFR, no insurers meet the definition of a small business under ORS 183.310, because no insurer is independently owned and operated. The repeal of the requirement to assign health benefit plan members to PCPs may have an indirect impact on primary care clinics and individual providers, many of whom are small businesses. However, the rule repeal is necessitated by the statutory change and does not have an impact beyond the underlying statutory requirements.

(2)(b) The proposed repeal of this obsolete rule is not expected to have any impact on compliance costs for health insurance carriers.

(2)(c) The proposed repeal of this obsolete rule is not expected to have any impact on compliance costs for health insurance carriers.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The department must repeal OAR 836-053-0028 because the statutory authority for the enactment of the rule was repealed by HB 4040 (2026) effective April 7, 2026. Since the repeal of this obsolete rule is not expected to have any impact on small businesses or other stakeholders, the division has not solicited feedback from stakeholders in advance of this notice.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The department must repeal OAR 836-053-0028 because the statutory authority for enactment of the rule was repealed by HB 4040 (2026) effective April 7, 2026. The repeal of the obsolete rule is not expected to have any impact on stakeholders. The rule is unenforceable and non-operational, so there is no need for input from stakeholders.

REPEAL: 836-053-0028

RULE SUMMARY: HB 4040 (2026), Section 26 repealed ORS 743B.221, assignment of beneficiaries to primary care provider rules.

CHANGES TO RULE:

~~836-053-0028~~
~~Primary Care Provider Assignment Methodology~~
~~(1) As used in these rules: ¶~~
~~(a) "Enrollee" means an employee, dependent of the employee or an individual otherwise eligible for a group or individual health benefit plan who has enrolled for coverage under the terms of the plan.¶~~
~~(b) "Primary care provider" means an individual licensed or certified in this state to provide outpatient, non-specialty medical services or the coordination of health care for the purpose of:¶~~
~~(A) Promoting or maintaining mental and physical health and wellness; and¶~~
~~(B) Diagnosis, treatment or management of acute or chronic conditions caused by disease, injury or illness.¶~~
~~(2) An insurer offering an individual or group policy or certificate of health insurance that reimburses the cost of hospital, medical or surgical expenses, other than coverage limited to expenses from accidents or specific diseases and limited benefit coverage, must assign an enrollee under the policy or certificate to a primary care provider if the enrollee or a parent of a minor enrollee has not selected a primary care provider by the 90th day of the plan year. If the insurer assigns the enrollee to a primary care provider, the insurer shall provide notice of the assignment to the enrollee or parent and to the primary care provider. The requirement to provide notice under this subsection does not require an insurer to disclose protected health information if such disclosure would be prohibited under the federal Health Insurance Portability and Accountability Act (HIPAA).¶~~
~~(3) An enrollee may select a different primary care provider at any time.¶~~
~~(4) Insurers must assign enrollees who are residents of the state of Oregon to an individual or group of individuals who are "primary care providers" in the following hierarchal order:¶~~
~~(a) According to the enrollee's selection. In order to prioritize enrollee choice of a primary care provider, insurers must make all reasonable efforts to communicate with enrollees to complete an initial primary care provider assignment.¶~~
~~(b) If the enrollee does not choose a primary care provider, insurers must assign the enrollee to a primary care provider using claim utilization information and the insurer's assignment methodology that enables the enrollee the best opportunity to access primary care services without unreasonable delay.¶~~
~~(c) If the enrollee chooses a primary care provider, but has predominant claim utilization with a different primary care provider, the insurer may communicate with the enrollee the opportunity to select the primary care provider with predominant claim utilization.¶~~
~~(d) If the insurer has no information pertinent to enrollee choice or prior utilization, the insurer must assign the enrollee to a primary care provider using the insurer's assignment methodology that enables the enrollee the best opportunity to access primary care services without unreasonable delay.¶~~
~~(5) Insurers must establish a primary care provider assignment correction process that works in partnership with providers to correct inaccurately assigned enrollees.~~
~~Statutory/Other Authority: ORS 731.244, Or Laws 2022, ch 37, sec 8~~
~~Statutes/Other Implemented: Or Laws 2022, ch 37, sec 8~~