



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

May 12, 2021

To: House Health Care Committee

CC: Senator Bill Hansell
Senate President Peter Courtney

From: Jesse Ellis O'Brien
Acting Policy Manager, Division of Financial Regulation

RE: Data on proton beam therapy coverage

At the public hearing on Senate Bill 2 in the House Health Care Committee on April 27, 2021, Committee members requested information from the Division of Financial Regulation regarding proton beam therapy coverage to help inform the debate on the bill. The division has investigated the issue, and this memo is intended to update the Committee on the division's findings to date.

SB 2 would make changes to ORS 743A.130 intended to restrict the applicability of prior authorization and utilization review requirements to health benefit plan coverage of proton beam therapy for cancer treatment and increase access to this service. As such, the Committee expressed interest in learning more about coverage of proton beam therapy under existing law, including the frequency of prior authorizations being approved and denied, as well as claims appeals and external reviews of claim denials for proton beam therapy services.

To provide the requested information on a timely basis, the division informally polled the five largest health insurance carriers in Oregon, which together represent about 90% of covered lives in the commercial insurance market.¹ To gather data from all commercial carriers, or to gather more detailed data, such as clinical data on proton beam therapy coverage for specific types of cancer, would require a formal regulatory data request that could not be completed quickly enough to facilitate the Committee's timely consideration of the issue.

The poll asked the carriers to provide total numbers for requests for prior authorization for proton beam therapy, how many prior authorization requests were approved and how many denied, how many denials were appealed, and the resolution of the appeal. The poll covered the time period since January 1, 2020, when ORS 743A.130 went into effect. It is likely that these numbers were affected in some way by the unusual circumstances of the COVID-19 pandemic. However, looking at earlier time periods would not reflect the impact of the existing law that SB 2 would amend.

¹ The five carriers polled were Kaiser, Moda, PacificSource, Providence, and Regence BlueCross BlueShield.

Here is a breakdown of the numbers provided.

- Prior authorization requests: 42
- Prior authorizations approved: 24
- Prior authorizations denied, in whole or in part: 18²
- Denials appealed: 10
- Denials upheld on appeal: 8
- Denials overturned on appeal: 2

In addition to the internal appeals process health insurance carriers are required to provide under ORS 743B.250, health benefit plan members have the option to request external review of adverse benefit determinations, including claim denials and denials of requests for prior authorization. The division oversees the external review process and assigns independent review organizations to individual cases. These organizations have the power to overturn a carrier's denial if they find that it was improper or not in keeping with the latest clinical evidence.

Since the division manages the external review process, we can easily access a broader range of data regarding external review requests without the need for a formal data call. As such, we examined external review requests for proton beam therapy services over the past five years:

- 2016 – 2 cases, both upheld denial
- 2018 – 1 case, upheld denial
- 2019 – 2 cases, 1 upheld denial and 1 overturned denial
- 2020 – 2 cases, 1 upheld denial and 1 overturned denial
- 2021 (to date) – 1 case, overturned denial

All together, this data presents a mixed picture. Both approvals and denials for proton beam therapy are common, and some denials are overturned on appeal or on external review. The division presents this information without specific commentary on its relevance to the merits of the legislation at issue, which is a policy matter for the Legislature to decide.

Please do not hesitate to contact us if you have questions or would like to discuss these matters further.

Sincerely,

Jesse Ellis O'Brien
Acting Policy Manager
Oregon Dept. of Consumer & Business Services
Division of Financial Regulation
Pronouns: he/him/his
971-707-3670 | Jesse.E.O'Brien@oregon.gov

² One prior authorization was described by the carrier as partially approved.