



February 12, 2025

Representative Rob Nosse, Chair  
Representative Cyrus Javadi, Vice-Chair  
Representative Travis Nelson, Vice-Chair  
House Committee on Behavioral Health and Health Care  
Oregon Legislative Assembly  
900 Court St. NE  
Salem, OR 97309

**Re: Concerns with House Bill 2959, Related to Fertility Coverage**

Chair Nosse, Vice-Chairs Javadi and Nelson, and Members of the Committee:

The PacificSource companies are independent, not-for-profit health insurance providers based in Oregon. We serve over 600,000 commercial, Medicaid, and Medicare Advantage members in three states. PacificSource Community Solutions is the contracted coordinated care organization (CCO) in Central Oregon, the Columbia River Gorge, Marion & Polk Counties, and Lane County. Our mission is to provide better health, better care, and better value to the people and communities we serve.

We write today to express concerns with House Bill 2959, which mandates coverage for fertility services.

First, we do not believe that this bill ensures more equitable access to treatment and services to Oregonians. As written, HB 2959 applies only to the state's Insurance Code, which covers a small percentage of all Oregonians. According to data presented by the Department of Consumer and Business Services in this committee on January 23, state-regulated health insurance covers just over 1 million Oregonians, or around 23% of the state's population.<sup>1</sup> In contrast, the Oregon Health Plan covers over 1.4 million Oregonians.<sup>2</sup>

As both a health plan and a coordinated care organization, we will be in the difficult position to have to deny coverage for our OHP members while approving coverage for our health plan members. We appreciate the recognition by the proponents, by including a study whether to extend coverage in section 3 of the bill, that Oregon Health Plan members should also receive access to this care. But in passing this legislation, the Assembly would be creating an inequity in care in the first place, with the dividing line being insurance coverage.

The bill also does not align coverage for civil servants through the Public Employees Benefit Board and the Oregon Educators Benefit Board, who are not subject to the Insurance Code

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<sup>1</sup> <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/CommitteeMeetingDocument/288110>

<sup>2</sup> <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/CommitteeMeetingDocument/287880>

unless otherwise specified by law.<sup>3</sup> While both PEBB and OEGB cover fertility treatments, current coverage is not as generous as that required by HB 2959. We believe that civil servants on PEBB and OEGB should also receive the same coverage as proposed in HB 2959.

In short, if these services are good for one set of Oregonians, they should be good for all Oregonians.

Second, the text of HB 2959 will likely present implementation challenges in the future. For instance, the bill is quite detailed in its directives to cover in vitro fertilization. But in the future, other, less invasive forms of fertility treatment like in vitro maturation, may become a more standard medical practice. As a health plan, we may in the future have to cover the more painful alternative and have discretion to not cover the less painful alternative. Furthermore, several subsections require coverage which must be consistent with guidelines published by the American Society for Reproductive Medicine or the American Society of Clinical Oncology. Our understanding of the case law on delegation is that these guidelines would be effectively those guidelines as in existence at the time of this bill's passage. We remain unclear how future guidance would be incorporated into law.

It will be on the Department of Consumer and Business Services to determine how health plans must implement these provisions, whether through rulemaking or through examination of our conduct. In the absence of any clearer legislative direction, both insurers and the agency may experience challenges in applying the legislation in the manner intended by the Assembly. We ask that we take the opportunity to make the text of the mandate clearer now, to avoid issues later after passage.

Finally, we do not have a good understanding of the relative costs and benefits this proposed mandate will impart on Oregonians. Our actuaries estimate that the mandate could increase premiums by approximately \$5 per-member, per-month. Taking our publicly reported enrollment numbers, we estimate that PacificSource members would see a collective increase of around \$4 million dollars in premiums over the course of a plan year.<sup>4</sup> This number is highly variable, as we cannot estimate utilization without trend data.

However, several states have reviewed similar mandates. A June 2023 study conducted by the Office of the Insurance Commissioner in Washington state concluded that the mandate would add between \$6.49 million and \$17 million to individual, small group and large group premiums. Washington states equivalent of PEBB and OEGB could experience between \$4 million and \$8 million in additional costs.<sup>5</sup> A similar study in Maine found that fertility coverage would raise premiums for that state's insurance buying public by \$5.03 to \$6.32 per-member, per-month.<sup>6</sup> A 2019 report by the New York Department of Financial Services estimated that the impact of a mandate calling for three cycles of IVF on all types of commercial health plans – individual, small and large group - ranged from \$96 million to \$113 million.<sup>7</sup>

Thank you for your consideration of our concerns.

Sincerely,

/s

Richard Blackwell, Director, Oregon Government Relations

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<sup>3</sup> See, e.g., ORS 243.144 (select Insurance Code provisions applicable to PEBB); ORS 243.877 (select Insurance Code provisions applicable to OEGB).

<sup>4</sup> Quarterly enrollment numbers available from the Department of Consumer and Business Services here:

<https://dfr.oregon.gov/business/reg/reports-data/annual-health-insurance-report/Pages/health-ins-enrollment.aspx>

<sup>5</sup> <https://www.insurance.wa.gov/sites/default/files/documents/2023fertility-treatment-cost-analysis-report.pdf>

<sup>6</sup> <https://www.maine.gov/pfr/sites/maine.gov.pfr/files/inline-files/LD1539-and-LD922-Mandated-Benefit-Analysis.pdf>

<sup>7</sup> [https://www.dfs.ny.gov/system/files/documents/2019/02/dfs\\_ivf\\_report\\_02272019.pdf](https://www.dfs.ny.gov/system/files/documents/2019/02/dfs_ivf_report_02272019.pdf)