

## Oregon Administrative Rules NOTICE OF PROPOSED RULEMAKING WORKSHEET

1. All categories on this form are required by the Secretary of State and the Attorney General's Administrative Law Manual per ORS 183.335. The grey notes are advice to assist you filling out this form.
2. This form includes the Statement of Need and Fiscal Impact, and space for rule text and summaries.
3. Fill out and return this completed form to the Rules Coordinator.

### Filing Contact:

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### Last Date and Time for Public Comment:

Date: (Earliest date is the 21<sup>st</sup> of the month after it is filed with SOS.) [April 22<sup>nd</sup>, 2024](#)

Time: (Suggest 5pm) [5pm](#).

Example: If you file Notice on April 5<sup>th</sup>, then the earliest date the public comment can end is May 21<sup>st</sup>.

### Filing Caption:

Must be 15 words or less describing the change to the rule(s).

Caption remains the same on all filings related to this rulemaking. (Notice, Temporary, Permanent)

TIP: As best as we can, describe the change that is occurring to the rule or program. Try not to use the 15 words to say "OAR", "rule" or describing the action (amend, repeal, etc)

### New rules to screen patients for financial assistance, provide for appeals, and report new data.

### Hearing:

Date: (Must be 14 days after this Notice is published in the Bulletin and before the last date for public comment ends.) [April 17th](#)

Time: (Start and end time. At least half an hour. May be longer, consider your audience and the nature of the rule changes impact on the public. As courtesy to the public, please keep the hearing open through the end time.) [2pm to 4pm](#)

Street Address: (All Hearings are virtual. Include zoom link and phone number to call in.) [Zoom link](#).

Hearings Officer Name: [Pete Edlund](#)

Special Instructions: The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to [Name] at [phone number] or by email at [email address].

### STATEMENT OF NEED AND FISCAL IMPACT

### Need for Rule(s) Changes:

Explain the need for the rule and the changes applied. If it is a new program, explain what the program does and what legislation (House or Senate Bill) created the program.

HB 3320 created new prescreening, appeals and data reporting requirements for the existing hospital financial assistance program created by HB 3076 (2019). Hospitals will now be required to screen certain patients for presumptive eligibility for financial assistance before they receive a bill, determine and award financial assistance based on said presumptive eligibility, establish an appeals process for financial assistance denials, and report data to OHA on financial assistance applications and determinations. The new bill will be incorporated into the existing community benefit reporting program rules. OHA will write new rules that will focus on technical specifications for processes and reporting.

### **Documents Relied Upon, and where they are available:**

List data sources and all documents used to create the rules or determine effects of potential program needs. List where they are available, either via a website or a specific contact person. If no documents were used, indicate "None", do not use "N/A".

ORS Chapter 442 information is available at

[https://www.oregonlegislature.gov/bills\\_laws/ors/ors442.html](https://www.oregonlegislature.gov/bills_laws/ors/ors442.html). Proposed changes to OAR 409-023

will be available on the agency's website at

<https://www.oregon.gov/OHA/HPA/Pages/Rulemaking.aspx>.

### **Fiscal and Economic Impact:**

Describe the fiscal impact that this rule change or new program will have on our community partner groups, the general population of Oregon, our interested parties, other state agencies, etc. If there is no fiscal impact to any entity in Oregon, indicate the Department/Authority does not anticipate there will be a fiscal impact from these rule changes. Do not use "N/A". If you held a RAC, compile the statements/answers submitted to you and include them here. If you did not hold a RAC, calculate a cost to the best of your knowledge for each of the groups referenced above.

There may be increased administrative burden and costs for professional services for hospitals to implement and run the additions to financial assistance specified in this bill. The bill is likely to result in an increase in unreimbursed care costs (charity care) to hospitals.

OHA will have a minor increase in administrative burden as the bill adds new reporting which will need to be processed and reported on.

There is a positive financial impact on the general population of Oregon as the low-income populations targeted in this bill will likely have lower hospital bills and medical debt.

### **Statement of 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).

Current staff will develop and launch the program so there will not be an increase in staff and payroll in order to write and implement these rules.

These rules are expected to lead to decreases in hospital bills and overall medical debt for members of the public.

Effect on Small Businesses:

Though Oregon does have some small, rural hospitals, they do not qualify as small businesses as defined by ORS 183.310(10)(a). However, Oregon's smaller, independent hospitals may face greater implementation costs and challenges compared with larger urban hospitals.

- (a) Estimate the number and type of small businesses subject to the rule(s);

None. Rule amendments apply to hospitals.

- (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

Hospitals may experience increased administrative burden to comply with the new screening, appeals and data reporting requirements above current requirements to report community benefit activities. Hospitals will need to set up a program, involving staff time to run these processes. OHA does not expect additional reporting requirements will require facilities expand staff.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Describe the monetary cost to comply with this rule change or new program will have on our community partners, the general population of Oregon, our interested parties, other state agencies, etc. Identify exact numbers or percentages if available. If you held a RAC, compile and include the statements/answers submitted to you. If there are no costs to comply with the changes in rule indicate "None". Do not use "N/A".

Cost estimates vary from no additional costs to upwards of \$100,000 depending on the status of the hospital and how the hospital chooses to implement the requirements. New rules will provide flexibility for hospitals in implementation, allowing hospitals to choose processes or services that work best for them. There are no set costs associated with these rules and hospitals will have options to minimize their financial impact.

The most likely source of additional costs identified in rule making is payments to professional services for providing credit/income analysis for patients. These costs are typically billed per service, and thus will vary across all hospitals based on their volume. Hospitals are not required to use a professional service to conform to rules and many hospitals are already utilizing and paying for the services.

The second most likely source of costs is hiring additional staff to administer the prescreening and appeals processes if the hospital determines their existing admissions or financial assistance staff are insufficient to handle the increased work. An estimated cost of an additional FTE, with benefits, to support this work is approximately \$100,000, an amount that will vary based on location and prevailing wages in the area.

### **Describe how small businesses were involved in the development of these rule(s)?**

Did you invite participation from small business in the RAC or policy advice? Or at another time in the rule drafting process? Include those comments here, only editing for length. If small businesses were not involved, indicate "none", do not use "N/A".

All Oregon hospitals, the Hospital Association of Oregon, along with other interested parties were invited to participate in the RAC. Small businesses are not involved in this process; rather hospitals that exceed the FTE to qualify as a small business, and local nonprofits are involved.

### **Racial Equity Statement**

Use the **OHA/ODHS RACIAL EQUITY IMPACT STATEMENT GUIDANCE** (which is located on the Administrative Rule Owl page) formulate your Racial Equity Statement and enter it here. Assess and describe how the rules impact racial equity across the state. Explain how the agency may mitigate the impact. An impact exists, please do not use "none" or "N/A". Use the question in the guidance tool to

#### **1. Identify Affected Communities, including Tribal Governments to form the RAC**

A. The populations affected from a racial equity perspective are those whose socioeconomic status fall into the 400% FPL or below. This could include all races, genders and sexual orientations, but Oregonians who identify as Black or African American, American Indian or Alaskan Native, or Hispanic or Latino have disproportionately lower median household incomes than those who identify as Asian or White ([source](#)). Additionally, the bill has the potential to impact undocumented workers in Oregon, a population that is sometimes self-excluded from other healthcare programs, meaning their bills could be impacted the same as all other Oregonians. The bill specifically targets the low-income population and may have a positive economic impact

through reduced hospital bills and medical debt. There is potential to impact those in rural areas more as Oregon's rural areas are lower income than the urban areas. The expected long-term impact includes increased compliance and more efficient processes on the hospital side, which should result in a more positive experience for low-income hospital patients.

B. Racially/ethnically specific communities are affected by this rule in that if they meet certain criteria, they will receive an automatic financial assistance reduction of their bill. All Oregonians, regardless of race/ethnicity, will be able to apply for financial assistance and have an easier process of receiving reductions to their bill.

C. To determine the impacts described here, this statement uses census data on median household income by race/ethnicity. This bill builds on the existing HB 3076 which established hospital financial assistance processes. To prepare for the rulemaking process, OHA conducted key informant interviews with partners who explained the way the bill and rules may impact undocumented individuals and outlined potential ways to ensure that financial assistance would be accessible to that population.

D. This rule has been identified as a Tier 3 per the tribal consultation policy, so no Dear Tribal Leader Letter was sent and no consultation meeting with tribal partners was held as the bill builds on existing processes targeting existing populations.

## 2. Community Engagement and Communication Strategy

The HB 3320 Implementation Team plans to engage the populations described in section (1) that are impacted by the rules to raise awareness of the proposed changes and allow them to provide feedback and suggestions through partnership with community-based organizations that directly work with and represent the impacted populations. Our partners are vocal proponents for the new bill and have provided invaluable information and support in developing these changes. We invited our community partners to the RAC and will work with them to communicate the changes to the public once the rules are final. We will issue a public invite to the RAC which the public to attend. We alerted the Tribes as a Tier 3 project.

All communications about the changes to financial assistance that impact the public are mandated by law to be plain language, translated into multiple languages, and easily accessible.

## 3. Communication Plan, Address Feedback.

To communicate the permanent rule change language with partners and impacted communities, we have a multiple step plan. During rule development, we interviewed all interested parties including hospitals, rule sponsor, and non-profit organizations that work with our impacted population. These interviews heavily informed the rules we drafted. These partners are also invited to participate in the RAC. Once the rules have been drafted, we will engage our non-profit and community partners to communicate about the rule changes and ensure uptake of the new law. This communication plan will involve at least one press release and potential other small and targeted communications.

## 4. Remediation Plan

To mitigate any potential negative impacts to racial equity or racially/ethnically specific communities, OHA is dedicated to working towards an equitable solution. The draft rules intentionally set boundaries which hospitals can act within and do not set a specific process, which could allow for changes in the future if necessary. During the rule drafting process, OHA reinforced strong relationships with partners and will continue to leverage these relationships if negotiations and changes are necessary.

**Was an Administrative Rule Advisory Committee (RAC) consulted? Select **Yes** or No?**

## If not, why not?

If you did not use a RAC or receive responses on the Fiscal Impact Statement or receive input on the Racial Equity Impact Statement, then indicate "no", then describe the stakeholder outreach that did occur and how small businesses were included in this process.

Yes, a Rules Advisory Committee was held on January 23<sup>rd</sup> and 30<sup>th</sup>, 2024 with all interested parties invited to attend and participate.

**Rule Text and Summary:** Include the following for each rule in this filing:

Rulemaking Action: [Amend existing](#).

Rule number: [409-023-0100](#)

Rule title: [Definitions](#)

Full rule text in tracked changes:

Statutes or Other Authority: [ORS 442.602, 442.624. ORS 442.618.](#)

Statutes or Other Implemented: [ORS 442.601, ORS 442.602, 442.612, 442.614, 442.615, 442.618, 442.624 & 442.630](#)

Brief Summary of rule changes: [Definitions section updated to include new definitions required in adopted rule 409-023-0120 and 409-023-0125. Minor housekeeping edits for grammar.](#)

Rulemaking Action: [Amend existing](#).

Rule number: [409-023-0115](#)

Rule title: [Annual reports of financial assistance policies and nonprofit status](#)

Full rule text in tracked changes:

Statutes or Other Authority: [ORS 442.618.](#)

Statutes or Other Implemented: [442.614, 442.618](#)

Brief Summary of rule changes: [Amended to include new data reporting requirements specified by HB 3320 \(2023\).](#)

Rulemaking Action: [Adopt new](#).

Rule number: [409-023-0120](#)

Rule title: [Requirements for prescreening patients for presumptive eligibility for financial assistance.](#)

Full rule text in tracked changes:

Statutes or Other Authority: [ORS 442.615.](#)

Statutes or Other Implemented: [442.614, 442.615](#)

Brief Summary of rule changes: [Adopt new rules specifying procedures for prescreening patients for presumptive eligibility of financial assistance as specified by HB 3320 \(2023\).](#)

Rulemaking Action: [Adopt new](#).

Rule number: [409-023-0125](#)

Rule title: [Requirements for a process for patient appeals of financial assistance determinations.](#)

Full rule text in tracked changes:

Statutes or Other Authority: [ORS 442.615.](#)

Statutes or Other Implemented: [442.614, 442.615](#)

Brief Summary of rule changes: [Adopt new rules specifying procedures for appealing a financial assistance determination as specified by HB 3320 \(2023\).](#)