



Report to the Legislative Assembly 2024 Annual Rulemaking Report

January 2025



Executive Summary

DATE: January 29, 2025
TO: Oregon Legislative Assembly
FROM: Andrew Stolfi, Director
RE: DCBS 2024 Rulemaking Report

House Bill 4106 (2016 legislative session) directs state agencies to annually report on permanent and temporary rulemaking actions. In 2024, the Department of Consumer and Business Services adopted, amended or repealed a total of 140 rules. The department processed two temporary rulemakings that amended 14 rules. The following is a synopsis of the department’s temporary rulemaking activities.

Description of Rulemaking	Oregon Administrative Rules and Action
ID 42-2024 : Temporary rules to implement 2024 HB 4149	Amend: 836-200-0401 836-200-0406 836-200-0411 836-200-0416 836-200-0418 836-200-0421 836-200-0436 836-200-0440
WCD 27-2024 : Adoption of new medical billing codes for 2025	Amend: 436-009-0004 436-009-0010 436-009-0012 436-009-0023 436-009-0040 436-009-0080

An electronic version of this report is available at <http://dcbspage.org/FFGZD>.

For questions, please contact:
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Department of Consumer and Business Services, Building Codes Division

Annual Report Regarding Temporary Rules

(ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	9
Amended	17
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Consumer and Business Services, Director's Office

Annual Report Regarding Temporary Rules

(ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	2
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Consumer and Business Services, Finance and Securities Regulation

Annual Report Regarding Temporary Rules

(ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	9
Amended	1
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Consumer and Business Services, Insurance Regulation

Annual Report Regarding Temporary Rules

(ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	4
Amended	13
Repealed	8

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	8
Suspended	0

ID 42-2024

Filed: 12/23/2024 2:44 PM

836-200-0401	Amend
836-200-0406	Amend
836-200-0411	Amend
836-200-0416	Amend
836-200-0418	Amend
836-200-0421	Amend
836-200-0436	Amend
836-200-0440	Amend

Statement of Need

2024 Oregon House Bill 4149 made updates to the statutes regulating the conduct of pharmacy benefit managers (PBMs). Most significantly, it changed the existing requirement that PBMs register with the Oregon Department of Consumer and Business Services (DCBS) to a licensure requirement. There are extensive references to "registration" in DCBS's existing rule that will need to be updated to "licensure" language. The law also expanded transparency requirements on PBMs, and new language is needed in the respective rule to reflect the addition of new data elements.

Additionally, some stakeholders have raised concerns that PBMs are not in full compliance with existing law. We are proposing updates throughout the PBM rules to provide additional clarity on existing requirements related to "maximum allowable cost" (MAC) lists, and adding new language reflecting market conduct requirements for PBMs that were created under 2019 HB 2185 and 2023 HB 2725.

Justification

The pharmacy industry is complex and the regulations in question are highly technical. In drafting these proposed rules, DCBS convened a Rulemaking Advisory Committee (RAC) including representatives of patients, insurers, PBMs, and pharmacies. The RAC met three times in 2024 and engaged in extensive discussion about the content of the proposed rules. After these discussions, the draft language reflects stakeholder consensus for the rule content. We expect that the language contained in this temporary filing is almost identical to the final rules that we plan to have effective before the expiration of these emergency rules.

Unfortunately, due to the time needed for stakeholder deliberation, it was not possible to complete the required notice and comment process in time for a January 1, effective date when HB 4149 becomes law.

Department of Consumer and Business Services, Oregon Occupational Safety and Health Division

Annual Report Regarding Temporary Rules

(ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	19
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Consumer and Business Services, Prescription Drug Affordability Board

Annual Report Regarding Temporary Rules

(ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	0
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Consumer and Business Services, Workers' Compensation Board

Annual Report Regarding Temporary Rules

(ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	3
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Consumer and Business Services, Workers' Compensation Division

Annual Report Regarding Temporary Rules (ORS 183.403)

Report contains rules filed during calendar year January 01, 2024 through December 31, 2024

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	2
Amended	53
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	6
Suspended	0

WCD 27-2024 Filed: 12/09/2024 12:14 PM

436-009-0004	Amend
436-009-0010	Amend
436-009-0012	Amend
436-009-0023	Amend
436-009-0040	Amend
436-009-0080	Amend

Statement of Need

Temporary rules are needed to allow health care providers and workers' compensation insurers to use 2025 medical billing codes on and after Jan. 1, 2025.

Justification

Failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned. Delay in adoption of up-to-date codes creates procedural friction in workers' compensation billing and payment. Adoption of 2025 codes will keep workers' compensation billing codes consistent with industry standards.

The agency finds that issuing temporary rules under ORS 183.335(5) is appropriate because it will avert administrative burdens to health care providers, workers' compensation insurers, and self-insured employers we would expect with delayed adoption of 2025 codes. Without these temporary rule changes: providers and payers would be required to use only 2024 codes until the agency can formally adopt new codes effective April 1, 2025 (projected); workers' compensation bills would have to be processed differently than bills for private health insurance, Medicare, etc.; providers using new codes would be subject to bill rejection; and insurers submitting data containing new codes to the agency would be subject to civil penalties. In addition, workers' access to quality health care is jeopardized if health care providers perceive workers' compensation care as too burdensome.

The agency finds that issuing permanent rules under ORS 183.335(2) and (3) is not appropriate because updated billing codes are not published by the Centers for Medicare & Medicaid Services and others in time for Oregon to adopt changes using standard (permanent) rulemaking procedures.