



# Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Division of Financial Regulation

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## Oregon Division of Financial Regulation Bulletin DFR 2017-07

TO: Health Insurance Issuers offering individual health benefit plans

DATE: December 29, 2017

RE: Special enrollment period for individuals losing minimum essential coverage due to plan discontinuation

### Purpose

This bulletin clarifies the Division's expectations for the special enrollment of individuals who have experienced a loss of minimum essential coverage because their 2017 individual health benefit plan was discontinued.

### Background

The Oregon Health Insurance Marketplace has been working with the Centers for Medicare and Medicaid Services (CMS) to determine the appropriate course of action for individuals who were enrolled in individual health benefit plans that were discontinued on December 31, 2017. CMS has indicated that these individuals may qualify for a special enrollment period through HealthCare.gov.

The Division issues this bulletin to ensure fairness and equal treatment for all Oregonians enrolled in individual health benefit plans, both on and off the Marketplace.

### Guidance

OAR 836-053-0431(2)(b) requires carriers offering individual health benefit plans to enroll an individual who loses minimum essential coverage within 60 days of an application for coverage. This rule aligns with federal requirements for special enrollment periods under 45 CFR 155.420 and limited open enrollment periods under 45 CFR 147.104.

Consistent with guidance provided by CMS, the Division interprets a loss of minimum essential coverage under OAR 836-053-0423 to include cases where an individual's health benefit plan was discontinued in accordance with ORS 743B.125. This interpretation applies in the individual market, both on and off the Marketplace, and regardless of whether the discontinuing carrier renewed (or offered to renew) the affected individual into another health benefit plan.

Accordingly, all carriers offering individual health benefit plans in 2018 must provide a 60 day special enrollment period to applicants who were enrolled in individual health benefit plans that were discontinued on December 31, 2017. This enrollment period will begin on January

1, 2018 and continue through March 1, 2018. The effective date of coverage for individuals enrolling pursuant to this special enrollment period must be consistent with 45 CFR 155.420(b)<sup>1</sup>.

Individuals who qualify for this special enrollment period may enroll through HealthCare.gov or directly with a carrier. Individuals may also work with a licensed health insurance producer.

Consumers seeking to access the special enrollment period through HealthCare.gov should contact the Oregon Health Insurance Marketplace at 1-855-268-3767. Consumers seeking to access the special enrollment period by directly enrolling with an insurer, should contact the insurer. Should a consumer require additional information they may contact the Division's Consumer Advocacy Section at 1-888-877-4894 (toll-free).

In cases where an individual is applying for special enrollment directly from a carrier, the carrier may require the applicant to provide documentation demonstrating his or her eligibility for this special enrollment period. Specifically, the carrier may require documentation demonstrating that, as of December 1, 2017, the applicant and any other individuals included in the application were enrolled in a individual health benefit plan that was discontinued at the end of 2017. Carriers that choose to require documentation in this manner must do so in a uniform and nondiscriminatory manner, without regard to the applicant's health status.

This guidance does not replace, limit, supersede or otherwise affect an individual's right to apply for any other special enrollment period provided under state or federal law.

C. Smith

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Cameron Smith  
Oregon Insurance Commissioner  
Director, Department of Consumer & Business Services

12/29/17

\_\_\_\_\_  
Date

<sup>1</sup> 45 CFR 155.420(b)(2)(iv) provides that "If a consumer loses coverage as described in paragraph (d)(1) or (d)(6)(iii) of this section... if the plan selection is made on or before the day of the triggering event, the Exchange must ensure that the coverage effective date is on the first day of the month following the date of the triggering event. If the plan selection is made after the date of the triggering event, the Exchange must ensure that coverage is effective in accordance with paragraph (b)(1) of this section or on the first day of the following month, at the option of the Exchange.