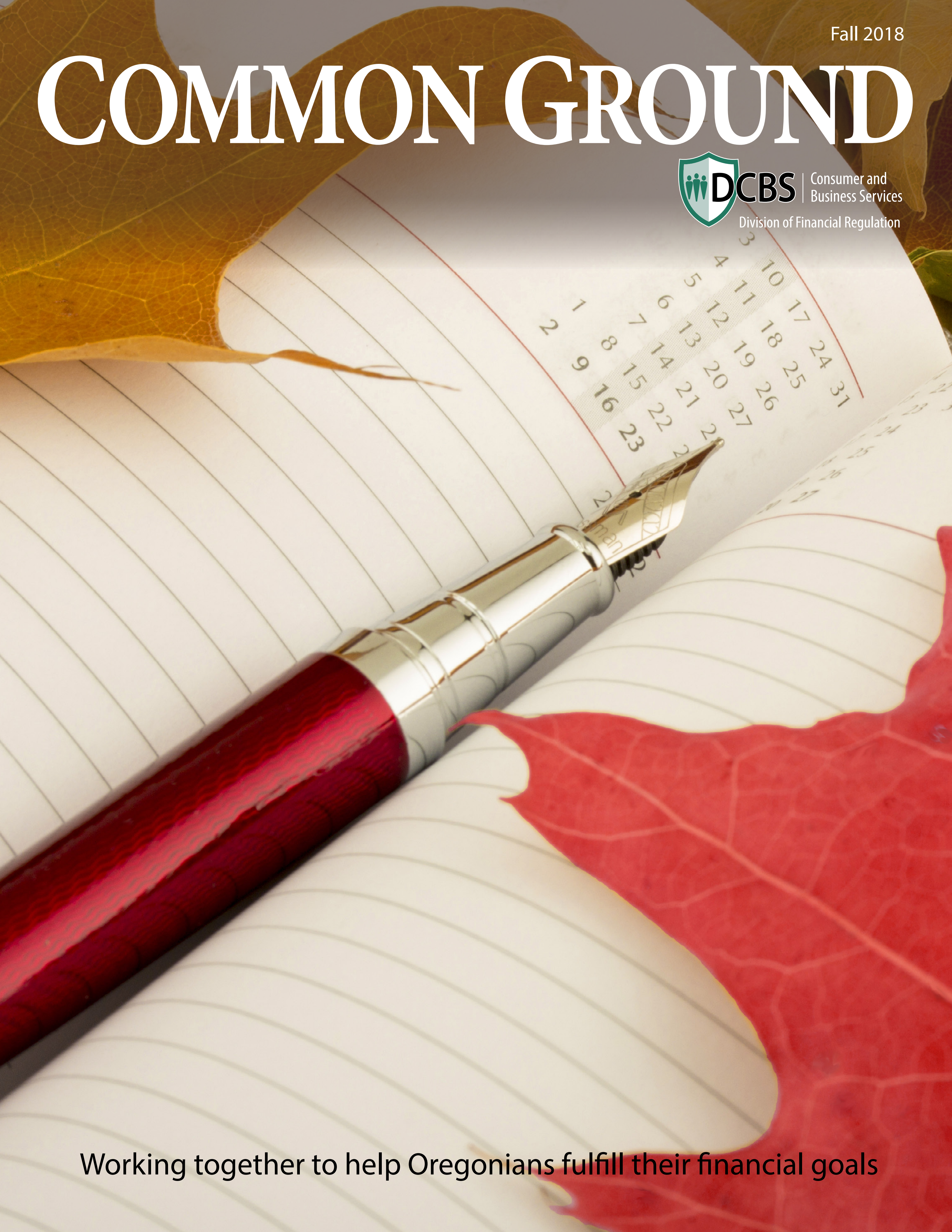
Fall 2018

COMMON GROUND

DCBS | Consumer and Business Services

Division of Financial Regulation



Working together to help Oregonians fulfill their financial goals

Administrator's Avenue

Thankful for fall planning

Fall planning season has arrived. A season full of brainstorming, goal setting, strategy meetings, and budget analysis. This has been the perfect time to reflect on the past year, and make sure all of our future goals, objectives, and plans are centered on the Oregon consumer.

Personally, I really enjoy this time of year. It provides the opportunity to connect with my colleagues on a deeper level. I get a sense of what excites them about public service, and how their focus helps drive our commitment to consumer protection.

Much of my summer and fall has been spent meeting with many of you, our state's insurance and financial services professionals. I have thoroughly enjoyed learning more about your areas of expertise, while sharing how our work at the Division of Financial Regulation intersects with your commitment to Oregon consumers.

As we turn our sights to 2019, we are focused on implementing several laws and rules through our committee work and rulemaking process. You will find updates on a lot of that in the laws and rules section of this newsletter.

We have also been working to make sure you are well-informed on the state's laws regarding the federal rules related to short-term, limited-duration health insurance plans and association health plans.

However, the Division of Financial Regulation covers a lot more than health insurance. We recently completed our report on earthquake insurance in Oregon, and helped draft the final report to the legislature for the Task Force on Autonomous Vehicles.

We are also committed to investigating and warning consumers about investment, mortgage lending, and debt management scams. We are proud to work with so many ethical professionals in this state who help so many Oregonians reach their financial goals, and we encourage you to help us identify and weed out those who seek to con Oregonians for personal gain.

As we wrap-up fall planning and set our sights on time with family and friends during the holidays, I want to wish all of you a special holiday season. I am very thankful for your willingness to collaborate, and your commitment to enhancing the lives of all Oregonians.

Happy Holidays,

Welcome to *Common Ground*.

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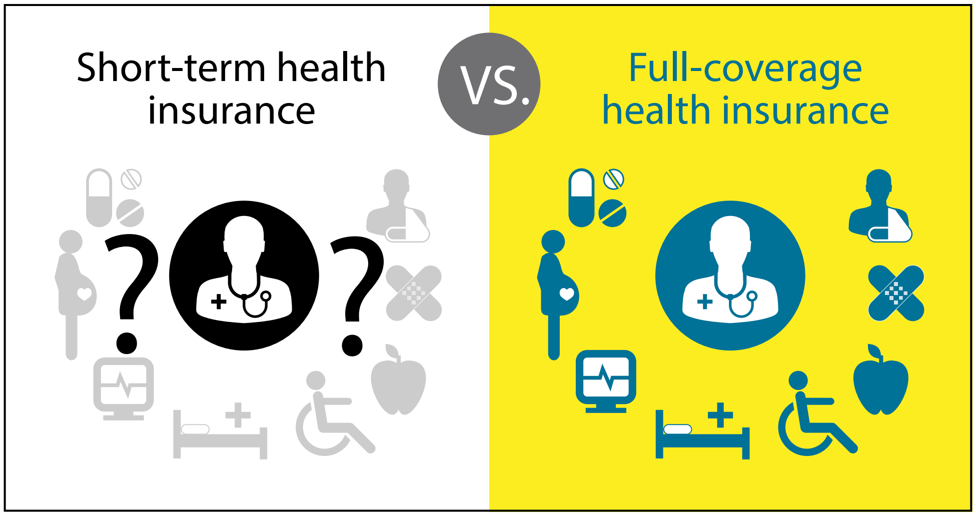
Guidance for short-term health insurance



The division is reminding insurance companies and professionals that it is a violation of Oregon law to market, sell, or offer short-term health insurance policies that exceed three months, including renewals, and a new policy cannot be issued to a customer within 60 days of expiration.

Anyone aware of the unlawful marketing, sale, or offering of short-term health insurance policies in Oregon is encouraged to contact the division at 888-877-4894 (toll-free).

Background

On Aug. 3, 2018, the United States departments of Health and Human Services, Labor, and Treasury published a final regulation on short-term, limited-duration insurance, 38 FR 38212. The regulation defines short-term health insurance plans as lasting less than 12 months, and has a total duration of 36 months or less, including renewals and extensions.

For purposes of federal law, short-term health insurance is not subject to Affordable Care Act market reform regulations, such as guaranteed availability and coverage for pre-existing conditions.

The federal regulation does not prevent states from enforcing stricter requirements for short-term health plans, including shorter duration limits.

Application of short-term, limited-duration insurance regulation in Oregon

Accordingly, Oregon law limits short-term health insurance policies to a maximum of three months, including renewals, and new policies cannot be issued within 60 days of expiration. A health insurance policy that is in effect for a longer period violates the exception for short-term health insurance under ORS 743B.005(16)(b)(H), and needs to comply with the Oregon requirements for a health benefit plan.

A person who participates in the marketing, sale, or offering of a health insurance policy that does not comply with these requirements may violate the insurance code and be subject to civil penalties.

The division's current product standards for short-term, limited-duration insurance and health benefit plans are available here: dfr.oregon.gov/rates-forms/health/Pages/health.aspx.

Recently, the division developed a consumer guide for short-term plans. Professionals who sell health insurance plans to Oregon consumers are encouraged to use the consumer guide as a way to help customers make educated decisions on their health insurance coverage needs. To get a translated version of the guide, contact a consumer advocate at 888-877-4894 (toll-free). ◆

Laws and Rules

The division is regularly involved in several rulemaking committees and workgroups. The full list is maintained on our website, but here is an update on some recent laws and rules.

The Prescription Drug Price Transparency Advisory Committee has met multiple times and has a wide-range of interests advising on the rulemaking. The process should be completed before the end of the year and rules in place by March.

The committee identified three new positions necessary for the division to implement the law. Program Coordinator, Cassandra Soucy, joined the division earlier this month, and two support positions will be filled early next year.

At this time, the committee is reviewing program details such as how reports will be received from pharmaceutical manufacturers and insurers. Click here to learn more.

The Balance Billing Advisory Committee was convened in April of this year. The 19-member committee met nine times to reach consensus for the rulemaking proposal. The proposed rule addresses two bills, House Bill 2339 from the 2017 session and Senate Bill 1549 from 2018.

HB 2339 prohibits out-of-network providers from balance billing patients for medical services provided at an in-network facility. SB 1549 requires continuation of medical assistance for a specified period following admission to a state hospital, permits approval of certain health benefits to be used with health savings accounts, and requires DCBS to establish reimbursement rates for surprise bills.

The proposed rule contains two rate sheets, one for anesthesia-related and one for non-anesthesia-related claims. It accounts for differences in rating based on Oregon's seven geographic rating areas, and allows for annual adjustments based on the Consumer Price Index.

The proposed rule will be finalized and become effective Jan. 1.

HB 4104 from the 2018 session, **the Hearing Aid Mandate**, expanded coverage mandates for hearing aids, cochlear implants, and hearing assistive technology.

The new law takes effect Jan. 1, but the timing requirements vary for different health plans.

The requirements for large group plans and plans not subject to rate review go into effect for the first issuance or renewal after Jan. 1.

For individual and small group plans, the requirements apply for plans that file rates on or after Jan. 1. HB 4104 includes age limits and does not require coverage of some of the mandated services and equipment for adult members.

A bulletin was released recently to address questions from the industry about implementing the new law. ◆

Moda Health Plan, Inc. and Delta Dental of California announce strategic partnership

In August, Delta Dental of California filed a request, known as a Form A, with the Department of Consumer and Business Services to purchase a 50 percent stake of Moda Inc. for approximately $155 million.

Delta Dental of California principally issues commercial group dental plan coverage, Medicaid and Medicare Advantage dental programs, and individual dental policies on a fee-for-service basis. Moda Health Plan, Inc. is an Oregon-domiciled health care service contractor that provides medical plans in Oregon and Alaska.

The timeline to review the acquisition lasts approximately six months. After the initial review was completed, the division held a public hearing in Portland on Oct. 29, and opened the public comment period through Nov. 12.

The division is now reviewing the application and all public comments to make a decision to either approve or deny the transaction.

Once a decision is made, the division will issue a public order that outlines the final approval or denial of the transaction.

The division's primary goal throughout this process is to ensure Oregon consumers are protected and that the partnership does not disrupt Moda's current customers.

To learn more about the transaction visit the Moda/Delta Dental merger page on our website. ◆

Earthquake Insurance Coverage in Oregon

Last year, the division completed a data call to better understand the current earthquake insurance market in Oregon. The data call included the top 15 homeowner insurance groups in the state, and two insurers that specialize in earthquake risk.

According to the data, approximately 15 percent of Oregonians with residential homeowner coverage also have earthquake coverage.

The percentage of earthquake coverage varies by region. The Willamette Valley had the highest at 17 percent of homes, followed by the Coast at 13 percent, the Coastal Range at 9.5 percent, and Eastern Oregon at 6 percent.

Oregon's percent of homes with earthquake coverage is comparable with its western neighbors. Washington, where the majority of insurers provide coverage by endorsement like Oregon, reports 11 percent of residential policy holders with earthquake coverage. California, where the majority of policies are handled by the California Earthquake Authority, reports 15 percent.

Earthquake coverage is widely available across Oregon, with multiple insurance groups writing earthquake policies in every county. The top five insurance groups combined have about 79 percent of the earthquake insurance market.

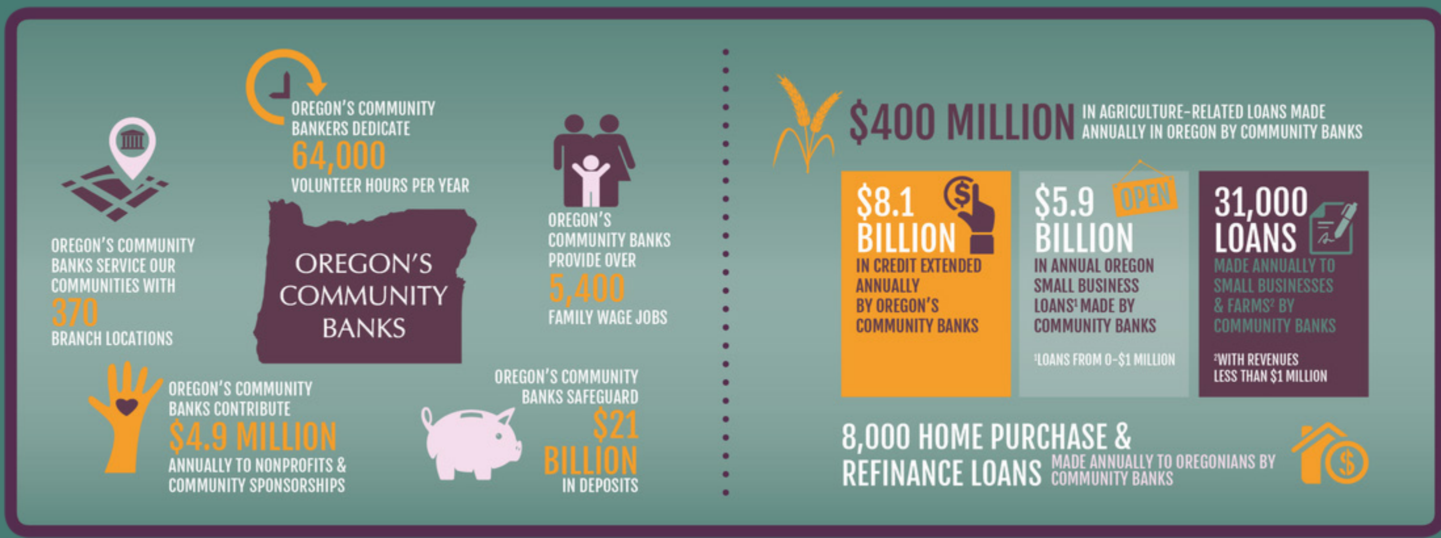
Insurers reported a variety of methods to underwrite earthquake risk. The majority of policies consider the date the home was built, the type of construction, the number of stories, the slope and soil type of the land, whether the home is bolted onto the foundation, and the existence of unrepaired damage due to a past earthquake.

The amount of the deductible was a significant factor in the cost of earthquake coverage. Insurers offered deductibles as low as 2.5 percent to as high as 25 percent. Insurers reported that 10 percent was the most common deductible chosen by policy holders.

The division also asked insurers what the yearly premium would be for a hypothetical home in Multnomah County. The cost varied depending on a number of factors. A policy with $420,000 in dwelling and $210,000 in contents coverage, ranged from $126 to $1,043 per year with a 10 percent deductible.

The entire report is available at, dfr.oregon.gov/business/reg/reports-data/Documents/2017-DFR-earthquake-datacall.pdf. ◆

Oregon Community Bank Week recognized a vital member of communities statewide



Gov. Kate Brown recently proclaimed Oct. 15-19, as Oregon Community Bank Week. The week honored local banks and their employees for their economic and civic contributions in communities across the state.

Oregon's community banks, most of which are chartered by the Department of Consumer and Business Services, play an essential role in promoting the economic health and prosperity of the state. In some communities, they are the sole provider of banking products and services and sometimes the largest employer.

Community banks provide $400 million in agriculture-related loans, $5.9 billion in small-business loans, and employ 5,400 people statewide.

"Our state banks take a relationship-based approach to doing business by providing banking services, creating jobs, and educating customers and students about a variety of financial matters," said Cameron Smith, DCBS director. "They actively participate in every corner of the state and are a major financing source for our small businesses and farms."

State-chartered banks throughout Oregon celebrated Community Bank Week in their local neighborhoods. Many of them hosted consumers, students, small businesses, and local elected officials to showcase the positive effect banks have on the people they serve.

To learn more about the Oregon banks recognized during Community Bank Week, go to oregonbankers.com/community-bank-week.html.

Beware of health insurance surveys offering gifts for personal information

The Division of Financial Regulation issued a cease-and-desist order against Helen Kyung Lee and Joany Inc., also known as Impact Health Inc., for forging consumers' signatures on insurance documents, which violates the Oregon insurance code. The division is pursuing fines and seeking to revoke the licenses of Lee and Joany Inc.

Lee and Impact Health Inc. offered consumers a $50 gift card for filling out an insurance survey through either Facebook or Craigslist. The survey required consumers to provide a copy of their health care identification card with a valid effective date and member number. Lee, or representatives of Impact Health Inc., then forged consumers' signatures on a form that identifies the consumers' insurance agent, also known as an agent of record form. This allowed Lee to receive commissions from insurance companies without the consumers' consent or knowledge.

Approximately 1,600 Oregonians completed the survey in 2017, and more than 900 agent of record forms were filed as a result. The division has attempted to contact several consumers who filled out the survey. At least 12 have confirmed that their signatures were forged, and that they did not ask Lee nor Impact Health Inc. to be their agent.

"The division takes attempts to deceive both consumers and companies that serve Oregonians very serious," said Andrew Stolfi, insurance commissioner. "We encourage everyone to be on alert for attempts like this to dupe consumers and businesses for financial gain, and to contact our consumer advocates if you believe you have been harmed."

The division urges anyone that filled out a survey from Impact Health Inc. to do two things:

1. Contact your insurance company to confirm it has the correct agent on file for you. If you filled out the survey, but do not have an agent, confirm that your insurance company does not have one listed for you.
2. Oregonians who learn that the agent of record is not correct, contact the division's consumer advocates at 888-877-4894 (toll-free) to report it.

This was a multi-state scheme. If you live outside Oregon and filled out a survey from Impact Health contact your state's insurance department to report it.

The division believes similar efforts exist to obtain consumers' personal information. Be mindful of these schemes, and avoid them with these steps:

- Be suspicious of offers to receive gift cards or similar prizes for providing personal information. If it seems too easy to earn a prize, it is probably a trick.
- Do not give out your personal information by phone, email, or text. Government agencies, insurance companies, banks, and credit unions typically do not ask for this information unprompted.

To learn more about protecting yourself and your finances visit, dfr.oregon.gov. Oregonians who have questions, concerns, or problems with an insurance or financial services company, agent, or broker can contact a consumer advocate at 888-877-4894 (toll free). ◆

Investor Advisory Notice: Promissory Notes

The Division of Financial Regulation is warning investors of risks associated with promissory notes.

Promissory notes are a written promise to pay a specified sum of money at a stated time. The notes are similar to a loan and generally pay interest. Companies sell the notes to raise capital and typically offer them to institutional and retail investors.

The North American Securities Administrators Association has identified promissory notes as a leading source of complaints among its member agencies. Last year, 210 note investigations and 149 enforcement actions were taken by state regulators.

In Oregon, five investigations and five enforcement actions were taken by the division last year.

A recent example is the division's cease-and-desist order against Woodbridge Mortgage Investment. Woodbridge raised money from approximately 70 Oregonians for an investment program that was not registered with the division, nor licensed to sell investments. Funds were used to purchase real estate, and investors were provided promissory notes in exchange. Woodbridge did not record mortgages then, last December, stopped making interest payments and filed for bankruptcy. The SEC filed a lawsuit alleging a $1.2 billion Ponzi scheme and several other states have taken similar action against Woodbridge.

Short-term promissory notes, such as Woodbridge, are the most common type of fraudulent notes. The division is warning investors to be cautious about short-term promissory notes for two reasons. First, the notes entice investors because it appears that their money will not be tied up for long. Second, some short-term notes may not be covered by federal or state securities laws.

Investors should be cautious about promissory notes with durations of nine months or less, because they may not require federal or state securities registration. These notes have been the source of most of the fraudulent activity seen by state securities regulators.

Protect yourself by using the following tips before investing in a promissory note:

1. Call the division's consumer advocacy team at 888-877-4894 (toll-free) to confirm that the notes are registered or legally exempt from registration.
2. Research the company. Understand how it will pay principal and interest on the note, as well as the costs to promote it, and find out the seller commissions.
3. Be suspicious of notes offering a high guaranteed rate of return.
4. If repayment is secured by an interest in real estate, confirm with a third party that a mortgage or trust deed is recorded on the property, and that no other liens exist.

Essentially, promissory notes encourage many types of investment scams. A written guarantee is not proof of a note's legitimacy. Before making any financial decisions, ask questions, do your homework, and contact our advocates at 888-877-4894 (toll-free) with questions about the product or person selling it.

Learn more at dfr.oregon.gov. ◆

BULLETINS AND NOTICES

DFR 2018-7: Regulation of association health plans in Oregon

The Oregon Division of Financial Regulation has received numerous inquiries about its guidance concerning associations and Multiple Employer Welfare Arrangements (MEWA). The bulletin summarizes and clarifies guidance for issuers, associations, MEWAs, insurance agents, and producers in light of the recent United States Department of Labor final regulation titled "Definition of Employer Under Section 3(5) of ERISA-Association Health Plans" (AHP rule).

The AHP rule does not pre-empt the Oregon insurance code, which limits the types of associations and MEWAs that may purchase or issue a health benefit plan in Oregon. Associations, whether established in Oregon or another state, are subject to the same statutory and regulatory requirements as any other group or association of employers that may offer health benefit plan coverage in Oregon.

The division will continue to enforce all Oregon laws applicable to health benefit plans issued by or to a group or association of employers as they existed before the issuance of the AHP rule without modification.

Review the entire bulletin for a summary of AHP requirements.

DFR 2018-8: Implementation of hearing aid and hearing assistive technology legislation

This bulletin clarifies the division's expectations regarding health insurers' obligations under House Bill 4104 (2018), effective Jan. 1, 2019. The bill amended statutes ORS 743 A.140 and ORS 743A.141 to require:

- Health benefit plans to cover bilateral cochlear implants regardless of whether they would otherwise cover (single) cochlear implants. ORS 743 A.140
- Coverage of programming, reprogramming, and repair and replacement parts for cochlear implants. ORS 743A.140
- Coverage of ear molds and replacement ear molds, batteries, necessary diagnostic treatment services, bone conduction sound processors, and hearing assistive technology systems. ORS 743A.141
- The coverage limit on "hearing aids" (including bone conduction sound processors and hearing assistive technology systems) was amended to require coverage once every 36 months without a dollar limit. ORS 743A.141
- Health benefit plans are also required to provide new notices of coverage limitations and educational materials related to hearing loss to enrollees and their parents or legal guardians.

For more information, review the entire bulletin

Quarterly rate filing deadlines for small-group health benefit plans.

All issuers selling small-group health benefit plans should refer to the table below regarding quarterly rate filing for small-group health benefit plans.

For more information visit, Oregonhealthrates.org.

2018-2019	Aug 22	Oct 31	Nov 1	Dec 31	Feb 28, 2019
DFR Filing Deadlines	CMS binder lock	Small Group quarterly rate filing 4/1/2019 effective dates Optional filing	Open Enrollment begins	Small Group quarterly rate filing 7/1/2019 effective dates Optional filing	Small Group quarterly rate filing 10/1/2019 effective dates Optional filing

For more information visit, Oregonhealthrates.org. If you have any questions regarding this information, contact Tashia Sizemore at, Tashia.Sizemore@oregon.gov. ◆

440-5360 (11/18/COM)