

Department of Consumer & Business Services
Oregon Division of Financial Regulation
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STANDARDS FOR STOP LOSS/EXCESS LOSS FORM AND RATE FILING

This product standards checklist has been provided as an aid to assist you in preparing your filing. ORS 731.296, OAR 836-010-0011(2) & (3). This checklist includes relevant statutes, rules, bulletins, and other documented positions to enforce ORS 731.016. **The standards are summaries and review of the entire statute or rule may be necessary.** After diligent consideration has been given to each item, mark YES, NO, Confirm, or N/A as is appropriate. “Not applicable” can only be used if the item does not apply to the coverage being filed. Some areas may ask for the Page and Paragraph where the applicable verbiage is located. Any line left blank may result in the delay or disapproval of the filing. Compliance with these provisions must be certified by both the filer and an officer of the company signing the Certificate of Compliance form. **Attach the completed checklist in SERFF.**

Coverage Explanation:

Excess Stop Loss (ORS 742.065) – Stop loss is insurance coverage extended to a self-insured employer health benefit plan to insure against the risk that any one claim will exceed a specific dollar amount or that an entire plan’s losses will exceed a specific amount. ORS 742.065(1) authorizes both health and casualty insurers to offer this coverage. Stop loss is casualty coverage and must meet those requirements as stated in this document.

****Filer must provide verification of compliance with ORS 742.065 (Oregon minimum attachment points) somewhere in the filing documentation for every Stop Loss submission. Failure to provide will delay our ability to review the filing.**

IMPORTANT: Stop Loss cannot require Medicare or Medicaid to be primary before the Stop Loss will kick in. Medicare and Medicaid are government benefits; they are not required for a person covered by an employer provided health benefit plan. Requiring government benefits to be primary over the employer provided coverage could jeopardize Federal funding for these programs. Coordination of Benefits “COB” only applies to a “health benefit plan” as defined in Oregon Code. Oregon does not allow COB wording to be contained in Stop Loss. Stop Loss is excess casualty coverage; therefore, it is not subject to COB wording. See page 7 for further details.

TOI (type of insurance): 17.0 **Sub-TOI:** 17.0026

This product standards checklist does not apply to Provider Excess Stop Loss. If filing provider excess coverage, use checklist 440-3610. If filing health products with large deductibles, use the applicable health product standards for that coverage to make the filing submission.

Review requirements	Reference	Description of review standards requirements	Check answer
GENERAL REQUIREMENTS (FOR ALL FILINGS)			
Requirements	ORS 742.003(1), OAR 836-010-0011	Filing requirements are located on SERFF or on our website at: http://dfr.oregon.gov/rates-forms/Pages/index.aspx . The correct information must be attached to the appropriate schedule items in order for your filing to be considered complete. General Information Tab. A description/explanation of the filing contents. Please note, information included in the Filing Description can be edited by using a Post Submission update. If a cover letter is attached, a new cover letter could be submitted if necessary.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.003(1), OAR 836-010-0011	Form Schedule Tab: 1. Only the clean copy of the submitted form should be individually attached under the Form Schedule. 2. Only one PDF per Schedule Item. 3. The form number should appear exactly as shown on the PDF. Any edition/revision date used in the form number must be included under the Form Number column. 4. It is not necessary to use the Edition Date column as this creates duplicate information. 5. The Form Type column must be completed correctly. 6. When replacing a form, the filer must correctly fill out the Previous Filing # field under the Action Specific Data column with the 8 digit State assigned filing number, and when applicable, the SERFF Tracking Number. If the filing was submitted after September 2011, there will only be a SERFF tracking number assigned. The form number of the previously approved form must be typed under the Replaced Form # field. Please be sure to type this form number (including the edition date) exactly the way it appeared when the original filing was submitted.	Yes <input type="checkbox"/> N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	ORS 742.003(1), OAR 836-010-0011	Rate and Rule Tab: Rates and rules should be submitted under the Rate and Rule tab. (Place the Actuarial Memorandum under the Supporting Documentation tab. See below.)	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Check answer
Requirements	ORS 742.003(1), OAR 836-010-0011	<p>Supporting Documentation Tab: Other filing requirements as listed below, or other documentation used to assist us in our review, should be submitted under the Supporting Documentation tab under the correct heading.</p> <ol style="list-style-type: none"> If the General Information area is not used, then a Cover letter or Filing Memorandum should be under the Supporting Documentation tab that explains the intent or purpose of the forms/rules/rates. Third-party filer's letter of authorization if applicable. Signed Certificate of Compliance, form 440-3894. For form submissions, a comparison document (annotated, highlighted, red-lined, or side-by-side) must be provided for each previously approved form. Submit document/s under the Supporting Documentation tab. Rates, rules, and actuarial memorandum with an overview of the contents of the filing and the reasons and procedures used to support the rate change. Attach to the Supporting Documentation tab, those previously approved Oregon Amendatory Endorsements that bring the submitted forms into compliance with Oregon requirements. 	<p>Yes N/A</p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>
Requirements	OAR 836-010-0011	Statement of Variability is attached under the Supporting Documentation tab (see description under Policy Documentation on page 5 below).	<p>Yes N/A</p> <p><input type="checkbox"/> <input type="checkbox"/></p>
	OAR 836-010-0011(4)	The filing description (cover letter) includes the following: Changes made to prior approved forms or variations from other approved forms. Please provide the SERFF filing numbers for the previously approved form versions; or if filed and approved prior to SERFF, please attach a copy of the perforated approval under the Supporting Documentation tab.	<p>Yes N/A</p> <p><input type="checkbox"/> <input type="checkbox"/></p>
	ORS 742.003(1), OAR 836-010-0011(3)	<p>The following are submitted in this filing for review:</p> <ol style="list-style-type: none"> New policy. Amendment of an approved form. Addition of supplemental options to previously approved forms. Application form if not filed and approved previously. 	<p>Yes N/A</p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>
	ORS 744.700 to ORS 744.740	If this policy utilizes a Third Party Administrator (TPA), the insurer has a written agreement for each TPA that transacts business with them.	<p>Yes N/A</p> <p><input type="checkbox"/> <input type="checkbox"/></p>

Review requirements	Reference	Description of review standards requirements	Check answer
Legibility	ORS 742.005(2)	Forms are clear and understandable in their presentation of premiums, labels, any description of contents, titles, headings, backings, and other indications (including restrictions) in the provisions. The information is clear and understandable to the consumer and is not unintelligible, uncertain, ambiguous, abstruse, or likely to mislead.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Policy Documentation	ORS 742.003, ORS 742.005(2), ORS 742.023	When variable items within any form are [bracketed] or otherwise marked to denote variability, either a Statement of Variability (SOV) or Explanation of Variables (EOV) is attached as a separate Schedule Item under the Supporting Documentation tab. The SOV/EOV provides the form number of the document to which it applies. The SOV/EOV provides the options for each variable item (eg: in or out, limit or value range, deductible options, etc.). The SOV/EOV contains confirmation that any changes, or modification to the options, are limited to new issues of the contract and do not apply to in-force contracts. All variables affecting pricing of the product must be submitted as part of a form/rule/rate or rule/rate filing prior to use.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

GENERAL FORM REQUIREMENTS			
Review requirements	Reference	Description of review standards requirements	Check answer
Form Requirements	ORS 742.023	<ol style="list-style-type: none"> 1. The full corporate name of the insuring company appears prominently on the first page of the policy. 2. A marketing name or insurer's logo, if used on the policy, must not mislead as to the identity of the insuring company. 3. The insuring company address, consisting of at least a city and state, appears on the first page of the policy. 4. The signature of at least one company officer appears on the first page of the policy. 5. A form-identification number appears on the form. We prefer the form number be placed in the lower left corner. The same form number may not be used more than once. It must be adequate to distinguish the form from all others used by the insurer. 6. The policy contains a brief caption that appears prominently on the cover page and describes the type of coverage. 7. The policy includes a table of contents that easily identifies where to locate the provisions. 	Yes <input type="checkbox"/> N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Check answer
POLICY PROVISIONS			
Application	ORS 742.013, ORS 742.016, Bulletin INS 2010-3	If any material or information obtained through the application process will be used to deny a claim or cancel coverage, then the Application form and any supplemental application forms must be filed for prior approval. If the application process is electronic, then screen shots must be provided. The Fraud Warning must comply with Oregon requirements.	Confirm <input type="checkbox"/>
	ORS 742.023, ORS 742.065(1)(c) & (1)(d)	The application identifies Oregon minimum attachment point requirements.	Confirm <input type="checkbox"/>
Fraud	ORS 742.013, Bulletin INS 2010-3	Fraud warning - If the policy has fraud, concealment, misrepresentation language, then the application is required to include a fraud warning. If one is included, it is general in nature and does not state that the applicant is "guilty" of fraud, but that they "may be" guilty of fraud. Fraud or misstatement warnings that mention criminal or civil penalties must avoid definite statements of the criminal nature of an act, guilt, or possible penalties. A warning that specifies that knowingly providing false information "may be" a crime, which "may be" grounds for criminal or civil penalties is appropriate.	Confirm <input type="checkbox"/>
Misrepresentation /misstatements	ORS 742.013	A provision in the policy, or the application, makes it clear that statements made by the insured, in the absence of fraud, are representations and not warranties.	Confirm <input type="checkbox"/>
Access to Courts	ORS 742.061	Attorney fees - If a claim settlement is not made within six months and action is brought to court, should the plaintiff's recovery exceed the amount of payment made by the defendant, the court will set attorney fees to be paid as part of the costs of legal action and any appeal, unless the parties agree to binding arbitration.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Check answer
Arbitration	Bulletin DFR 2020-1	<p>Voluntary arbitration is permitted by the Oregon Constitution and statutes. Please see additional details below:</p> <ul style="list-style-type: none"> • Either party may elect arbitration at the time of the dispute (after the claimant has exhausted all internal appeals if applicable); • There must be mutual agreement at the time of the dispute to use an arbitration process. Mandatory arbitration is not allowable; • Arbitration will take place in the insured’s county or at another agreed upon location; • Arbitration will take place according to Oregon law. • The process may not restrict the injured party’s access to other court proceedings; <p>Restricting participation in a class action suit is permissible.</p>	<p>Yes N/A <input type="checkbox"/> <input type="checkbox"/></p>
Stop Loss/Excess Loss coverage	ORS 742.005, ORS 742.065	<p>1. By statute, Stop Loss is excess over a less than fully funded employer health benefit plan. Stop Loss cannot require Medicare or Medicaid to be primary before the Stop Loss will kick in. Medicare and Medicaid are government benefits; they are not required for a person covered by an employer provided health benefit plan. Requiring government benefits to be primary over the employer provided coverage could jeopardize Federal funding for these programs.</p> <p>2. Coordination of Benefits (COB) only applies to a “health benefit plan” under Oregon Code. Oregon does not allow COB wording to be contained in Stop Loss. Stop Loss is excess casualty coverage; therefore, it is not subject to COB wording.</p> <p>NOTE: Retirees are not actively working or employed, so employers can require retirees on their plans to have Medicare be the primary payer.</p> <p>Medicare is primary for Medicare eligible individuals actively working past age 65 for small employers with 19 or fewer employees. In this case, employers can require employees enroll in Medicare.</p>	<p>YES NO N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/></p>

Review requirements	Reference	Description of review standards requirements	Check answer
Excess coverage/stop-loss	ORS 742.005(2), ORS 742.023(1), ORS 742.065(1)	Agreement includes definitions that comply with stop-loss/excess-loss and adequately defines the coverage. The provisions detailed in ORS 742.065 must be in the policy.	Confirm <input type="checkbox"/>
	ORS 742.065(1)(c) & (1)(d)	The policy and application identifies the minimum attachment points. 1. Aggregate attachment point or retention is not less than 120 percent of expected claims. 2. Individual attachment point or retention is not less than \$10,000.	Confirm <input type="checkbox"/>
Policy Period	ORS 742.048 ORS 742.023(1)(d)	Coverage will commence at 12:01 a.m. at the insured's address on the date the policy takes effect. If the policy does not insure real property, use the insured's principal place of business within Oregon, or the insured's residence. The effective date and time shall not be prior to the time at which coverage commences. When parties agree, a binder may commence coverage at an hour different than 12:01 a.m. Any statement of time shall mean time according to the legal standard of time at the insured's primary location or residence premises. A full term of coverage would be 12:01 am on the effective date of the policy to 12:01 am on the expiration of the policy term. Use of a different expiration time could result in an unintentional lapse of coverage that might harm the insured. We recommend using a consistent start and end time.	Confirm <input type="checkbox"/>
General Requirements	ORS 742.016	The agreement and any attached written application make up the entire contract that can be used as evidence in any action based on the contract.	Confirm <input type="checkbox"/>
	ORS 742.065(1)(a)	The policyholder is identified in the policy as the employer, trustee of the plan, plan sponsor, or the plan.	Confirm <input type="checkbox"/>
	ORS 742.065(1)(b)	The proceeds provision provides for the payment of benefits to the policyholder.	Confirm <input type="checkbox"/>
	ORS 742.053	Proof-of-loss forms are provided upon request.	Confirm <input type="checkbox"/>

Requirements for Rates

Ratemaking generally	ORS 737.310, ORS 737.205	All schedules and tables of premium rates, amendments, or corrections for legal service used in Oregon are filed, including the following: <ol style="list-style-type: none">1. Complete premium data.2. Data on losses, Loss Adjustment Expense (LAE), and other expenses.3. Information on the expected loss ratio.4. Investment income cash flow method or alternative method showing the investment income earned on loss, LAE, and unearned premium reserve to earned premium.	Confirm <input type="checkbox"/>
	ORS 737.205	Includes copies of rates, rating plans, and rating systems for this filing.	Confirm <input type="checkbox"/>