



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

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OREGON INSURANCE DIVISION BULLETIN INS 2010-01

TO: All Insurers, Health Care Service Contractors, and Multiple Employer Welfare Arrangements as Defined in ORS 750.301 that Offer Individual, Group, or Portability Health Benefit Plans in the State of Oregon

RE: Guaranteed Renewability of Individual, Group, and Portability Health Benefit Plans

The State of Oregon Insurance Division of the Department of Consumer and Business Services (“DCBS”) is issuing this bulletin to clarify when an insurer, health care service contractor, and multiple employer welfare arrangement as defined in ORS 750.301 (collectively “insurer”) may cancel or non renew an individual, group, or portability health benefit plan for misrepresentation.

ORS 743.737, ORS 743.754, ORS 743.760, ORS 743.766, OAR 836-053-0040(10), OAR 836-053-0230(12), and OAR 836-053-0440(11), and OAR 836-053-0785(5) set forth the standard for cancellation and non renewal of individual, group, and portability health benefit plans under Oregon law. ORS 743.737, ORS 743.754, ORS 743.760, and ORS 743.766 allow cancelation or nonrenewal of an individual, group, or portability health benefit plan for misrepresentation. OAR 836-053-0040(10), OAR 836-053-0230(12), OAR 836-053-0440(11), and OAR 836-053-0785(5) further clarify that individual, group, and portability health benefit plans are renewable at the option of the policyholder and cannot be discontinued by the carrier unless consistent with the requirements of HIPAA. Under HIPAA, which preempts the Oregon law cited above, an insurer is prohibited from canceling or non-renewing an individual, group, or portability health benefit plan for misrepresentation unless such misrepresentation is material and intentional. See 42 U.S.C. 300gg-42 and 42 U.S.C. 300gg-12. Accordingly, in Oregon an insurer is prohibited from canceling or non-renewing an individual, group, or portability health benefit plan for misrepresentation unless such misrepresentation is material and intentional. Both DCBS and the Centers for Medicare and Medicaid Services are committed to enforcing the law as clarified in this bulletin.

This bulletin takes effect immediately.

Dated this 20th day of April 2010 at Salem, Oregon.

(Signed)

Teresa D. Miller, Administrator
State of Oregon Insurance Division
Department of Consumer and Business Services