



Oregon

John A. Kitzhaber, MD, Governor

Department of Consumer and Business Services

Insurance Division
 350 Winter St. NE
 P.O. Box 14480
 Salem, OR 97309-0405
 503-947-7980
 Fax: 503-378-4351
www.insurance.oregon.gov

CORRECTED

April 17, 2014

TO: Issuers that Offered Early Renewals of 2013 Non-grandfathered Individual and Small Group Health Benefit Plans

RE: Updated Guidance for Transitional Health Benefit Plans Permitted by Enrolled Senate Bill 1582 (2014 Legislative Session)

The 2014 Oregon Legislature enacted Senate Bill 1582, which allows insurers (“carriers”) the option to continue all in-force 2013 transitional health benefit plans through December 31, 2015.

Transitional health benefit plans do not comply with the January 1, 2014 market reforms, but do comply with the requirements in effect on December 31, 2013 and will be renewed in 2014 for coverage that continues into 2015. The bill amends Oregon law to make it possible for transitional health benefit plans to renew beyond 2014 pursuant to federal guidance and to give Oregonians more health insurance options. Without this change, carriers could not renew transitional health benefit plans beyond their termination date in 2014.

This memo sets forth regulatory requirements and guidance for transitional health benefit plans (“transitional plans”). The term “grandmothered” is used occasionally and refers to individual and small group non-grandfathered plans that do not meet the 2014 Affordable Care Act (ACA) requirements. In Oregon, these plans were afforded an “early” renewal on or before 12/31/2013.

| TOPIC | DATE | QUESTION | ANSWER |
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| Rates | 4/23 | <i>If a carrier chooses to offer transitional plans to provide coverage through 2015, can the carrier file for rate changes on these 2013 plans?</i> | <p>Yes. Rate filings are due 6/2/2014. No exceptions will be granted.</p> <p>For small group filings, a carrier can request an effective date for their transitional plan rates as early as October 1, 2014. If no special effective date is requested, rate changes are effective and allowed at plan renewal on 12/31/2014. Rates are effective for 12 months for each group.</p> <p>For individual, rate changes are effective and allowed at plan renewal on 12/31/2014.</p> |
| Rates | 4/23 | <i>If a carrier has grandfathered and grandmothered plans how should the rates be pooled and filed?</i> | <p>Grandfathered and transitional plans must be pooled together, consistent with pricing in 2013. Oregon law requires all plans in the pool to have the same effective date. Therefore, individual</p> |

Exhibit 2

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| | | | <p>grandfathered plans effective dates will match the transitional plans with an effective date of 12/31/2014. Grandfathered and transitional plans must be filed separately in SERFF (transitional plans are still non-grandfathered plans).</p> <p>OID issued an emergency rule, OAR 836-053-0066 requiring transitional plans be pooled with grandfathered plans. The emergency rule will be posted on our website at; http://www.oregon.gov/DCBS/insurance/legal/laws/Pages/laws-rules.aspx</p> |
| Rates | 3/12 | <i>If a carrier chooses to offer transitional plans, can the carrier file for rate changes on 2014 ACA-compliant plans in the individual market?</i> | No. Rates for ACA compliant plans offered for sale in 2014 are final and cannot be changed until the 2015 plan year. |
| Rates | 3/12 | <i>If a carrier chooses to offer transitional plans, can the carrier file for rate changes on 2014 ACA-compliant plans in the small group market?</i> | No. The last opportunity to file small group rate changes for effective dates in 2014 has passed. |
| Policy-holder notice | 4/17 | <i>Are carriers required to send notices that comply with HHS/CMS guidance?</i> | <p>Yes. Carriers should follow federal guidance. See the federal guidance at this link: http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/transition-to-compliant-policies-03-06-2015.pdf</p> <p>We are not allowing changes to the CMS model. These filings will be considered an informational filing.</p> |
| Discontinuation | 3/12 | <i>Can transitional plans be discontinued?</i> | Yes. The plans may be discontinued by the carrier at the end of the calendar year and in accordance with requirements for discontinuation. The affected policyholders may be mapped by the carrier or personally select an ACA compliant plan, which will result in joining the ACA-compliant “single risk pool.” |
| Grandfathered plans | 3/12 | <i>If a carrier either has no transitional plans or does not plan to make a rate filing for a transitional plan, how does that affect grandfathered plan rate filings?</i> | If a carrier only files grandfathered plans, there is no applicable rate filing deadline. |
| Rate filing product standards | 3/12 | <i>What product standards should be used to file rates for a transitional plan?</i> | The 2015 rate filing product standards should be used. If a particular rating requirement is not applicable to the transitional plans or grandfathered plans, please identify it in the rate filing. |
| Offer | 4/11 | <i>Which individual and small group policyholders can be given the option for a transitional plan?</i> | Carriers that offered 2013 renewals through 03/31/2014 now have the option to extend those policies through 12/31/2014 and may then choose to offer transitional plans in compliance |

[OAR 836-010-0012] **OAR 836-010-0013**

Exhibit 2

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| | | | <p>with SB 1582.</p> <p>In the small group and individual market, a carrier may offer a transitional plan to policyholders of 2013 plans that renew in 2014.</p> <p>Policyholders that have already moved to an ACA compliant plan are not eligible for a transitional plan.</p> |
| Offer | 4/11 | Can a carrier choose to offer transitional plans to some policyholders, but not others? | <p>No. If offering transitional plans, carriers must offer such plans to all eligible policyholders in a given market (i.e., individual or small group). Carriers are not required to make the same decision for both the individual and small group market.</p> |
| Offer | 4/23 | Does SB 1582 allow an ORS 743.734(7)-exempt health benefit plan issued to a small group through an association to renew in 2014 as a transitional plan? | <p>No. A health benefit plan operating under the exemption described in the pre-HB 2240 version of ORS 743.734(7), cannot be renewed in 2014 as a transitional plan.</p> |
| Offer | 4/23 | Can an association plan issued to individuals or small groups renew in 2014 as a transitional plan? | <p>Individual policies issued through associations and small group plans issued through associations may be renewed in 2014 as transitional plans if they comply with their relevant market requirements (e.g., individual – individual, small group – small group) and are not operating under the exemption in pre-HB 2240 ORS 743.734(7).</p> |
| Benefits | 4/11 | Do transitional plans meet the definition of “minimum essential coverage” under the individual mandate? | <p>Yes. These are plans sold in the individual or small group market and therefore, meet the definition of “minimum essential coverage.”</p> |
| Benefits | 4/11 | Does Mental Health Parity apply to these transitional plans? | <p>Individual plans will be required to comply with the Mental Health Parity requirements upon renewal on or after July 1, 2014.</p> <p>Small Group plans are NOT required to comply with the Mental Health Parity requirements effective July 1, 2014. These requirements are tied to Essential Health Benefits and transitional plans are not subject to EHB.</p> |
| Benefit | 3/19 | What are the ACA provisions that apply to transitional plans? | <ul style="list-style-type: none"> • Prohibition on Annual Limits (Sec. 2711); Mental Health Parity (Sec. 2726) (individual plans only); • 90-Day Waiting Period (Small Group) (Sec. 2708); • Pre-existing Conditions for Adults (Small Group) (Sec. 2704) |
| Filings | 4/11 | Do transitional plans have to be filed in a binder filing? | <p>No. These plans cannot be filed in a binder filing.</p> |

Exhibit 2

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| Notices | 4/11 | <i>May carriers include other materials with the CMS model notice?</i> | No. The notice must be sent separately. |
| Rates | 4/23 | <i>May a carrier charge ACA fees on transitional plans?</i> | Not for transitional plans that are issued using previously filed and approved rates. ACA fees as well as other fees and taxes may be included in the 2015 transitional plan rate filing due 6/2. |
| Rates | 4/11 | <i>For small groups, can trend be added to the filed/approved rates?</i> | No. Trend factors were not approved for use in 2014 for transitional plans. |
| Benefit | 4/11 | <i>Which of the 2014 state legislation that require reimbursement apply to transitional plans?</i> | ORS 743A.082 Diabetes management for pregnant women. HB 4110 Inmate (pre-adjudicated) coverage HB 4013 Prescription drug step therapy SB 1579 Prescription drug synchronization Plan HB 4104 Workers Compensation Claims |
| Policy-holder notice | 4/11 | <i>Are carriers required to send a 30 day renewal notice (business as usual) as well as the CMS notice?</i> | Yes. The CMS notice is not a renewal notice. Renewal notices are still required providing policyholders the options available and premium information. |
| Grand-fathered plans | 4/17 | <i>Will grandfathered plans require a rate hearing?</i> | Yes. For carrier convenience, we will try to schedule grandfathered, transitional, and ACA compliant plan hearings at the same date and time. |
| Benefits | 4/17 | <i>Do transitional plans have to comply with ORS 743A.124 colorectal cancer screening and laboratory test?</i> | Yes. ORS 743A.124 applies to all health benefit plans (including grandfathered, non-grandfathered, transitional, and ACA-compliant) upon issuance or renewal on or after March 3, 2014. |