

Property and Casualty

Oregon Insurance Division

June 17, 2014

Online viewers: Submit questions during
the training at
insurance.video@state.or.us

Welcome

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Agenda

Jan

- Personal and Commercial Auto
- Limited License OAR 836-071-0108
- GAP/Collateral Protection/Residual Value
- Travel Insurance

Lorna

- Defense within Limits
- Domestic Partnerships
- Governing Law
- Vacant Buildings

Rolf

- Product Standards [how to find, review cycle, updating]
- Filing Review Process – The Journey
- Fraud and Material Misrepresentation
- Use of bracketing/variability
- Font

Jan

- New and Innovative Products, Forms, Programs
- Interline versus multi-line forms
- When to use CMP Coding (package or multi-line) and when to file by line of business
- Cancellation for Commercial and Personal Insurance
- Non-renewal or Renewal on Altered Terms for Commercial and Personal Insurance
- Contractual Liability Reimbursement Insurance Policy (CLIP)

Lorna

- “Group” Form Filings
- How to Correctly Complete the Form Schedule Tab
- What to do when you need SERFF help

Jan

- Inland Marine
- Assumption/Merger/Name Change/Logo Change
- Bureau Adopt/Non-adopt/Delay Adopt filing process

Rolf

- Arbitration and Appraisal for Oregon
- E-Notification
- Getting help (Contact info)

Thank you!

PERSONAL AUTOMOBILE AND COMMERCIAL AUTO/GARAGE

- See product standards checklist #440-3615 (Forms), 440-3615A (Application only). Rules and rates are “file and use” pursuant to ORS 737.205 and ORS 737.310
- Required financial responsibility for liability – ORS 806.070 and 806.075;
- Uninsured motorists/underinsured motorists – ORS 742.500 to 742.510;
- Automobile Personal Injury Protection – ORS 742.518 to 742.542
- Total Loss appraisal – ORS 742.554 to 742.558
- Cancellation/non-renewal – ORS 742.560 to 742.572
- Motorcycles
- Boats
- Classic cars
- Motor homes
- Trailers
- SR-22 [see ORS 806.010 to 806.055, ORS 806.200 to 806.300]

AUTO - Continued

- Convictions versus violations [see ORS 746.265]
- Accidents
- Points
- 3-year look back for personal auto [commercial can be longer]. ORS 746.265 (3) allows use of accident and conviction info longer IF being used to provide a discount.
- Named Driver Exclusion forms [must cover UM/UIM and AIP- cannot exclude]
- UM/UIM Selection Form [cannot reject UMBI]
- How does the company or agent/producer document offer and acceptance or rejection of UMPD?

LIMITED LICENSE OAR 836-071-0108 – WHEN IT CAN BE USED (PRODUCTS)

- (1) (c) unemployment and FMLA
- (1) (d) credit property and VSI
- (1) (e) mortgage guaranty insurance
- (1) (g) GAP – see ORS 731.036 (9) for Guaranteed Auto Protection
- (2) (a) crop
- (2) (b) surety
- (2) (c) mechanical breakdown
- (3) Trip travel

When is a full Casualty, full Property, or Full Health license required to sell certain coverage under a property/casualty policy?

Examples: when travel is sold on an annual policy basis (multiple trips); collateral protection; residual value (leased vehicles); commercial credit.

File forms, rules, and rates in one combined filing.

GAP/COLLATERAL PROTECTION/RESIDUAL VALUE HOW TO FILE

- ORS 731.036 (9) defines GAP that must be filed for prior approval. A single submission is made and must include marketing plan, application, forms, rules, and rates. Actuarial support for the expense structure is required.
- Collateral Protection is commercial casualty insurance, written to protect the interest of the business who is leasing or loaning equipment and wants to make sure their interest in the physical property is protected. Forms, rules, and rates are submitted in a single filing. Actuarial support must be included under Supporting Documentation.
- Residual Value is commercial casualty insurance. It protects the dealer when a vehicle is returned at the end of the lease and the market value is less than was anticipated at the time the lease was entered into. Premium is the responsibility of the named policyholder, not the person leasing the vehicle.

Product standards checklist #440-3616 contains TOI and sub-TOI codes.

Who to contact with GAP, Collateral Protection or Residual Value questions?

Lorna.keyes@state.or.us 503-947-7249

Jan.vitus@state.or.us 503-947-7278

TRAVEL INSURANCE – SINGLE TRIP/Annual Travel/with Blanket Accident

Product Standards checklist 440-3624

- ORS 742.041 (7) allows a blanket travel policy that contains trip health and baggage – nothing else.
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- ORS 742.041 (8) allows a package as long as approved by the Director. The package can include trip interruption, trip cancellation, lost or destroyed baggage, rental car physical damage, repatriation of remains, trip health (trip specific and not subject to ACA mandates), AD&D (must comply with ORS 743.053), ID Theft that occurs during or as a result of the trip, - basically anything directly connected to the travel.
- ORS 742.041 (8) allows us to approve a Blanket Accident policy and travel riders that will be used with it. See ORS 743.534

If the insurer wishes to write single trip travel and also offer annual travel, we must have separate policy contracts filed for our review. A policy may not be endorsed to change it from single trip to multi-trip.

Trip Travel

- A single specified trip of limited duration [OAR 836-071-0108(3)]
- Submit forms, rules, rates, application, marketing materials (screen prints OK), actuarial support all in one single filing
- Verify what license producers will use. [Either limited per the rule; or a full Casualty and full Health]
- Terrorism exclusion is limited to an event that occurs in a foreign location on the US State Department's do not travel or travel advisory list. Basically, the client has made an affirmative decision to go in harm's way.

Annual Travel or multiple trip travel insurance

- Submit forms, rules, rates, application, marketing materials (screen prints OK), actuarial support all in one single filing
- Verify what license producers will use [a full Casualty and full Health are required]
- Terrorism exclusion is limited to an event that occurs in a foreign location on the US State Department's do not travel or travel advisory list. Basically, the client has made an affirmative decision to go in harm's way.

A Blanket Accident and travel rider/endorsement policy

- Submit forms, rules, rates, application, marketing materials (screen prints OK) all in one single filing. File as a Health filing.
- Verify insurer and producers hold a full Casualty and full Health license
- Terrorism exclusion is limited to an event that occurs in a foreign location on the US State Department's do not travel or travel advisory list. Basically, the client has made an affirmative decision to go in harm's way.

Who to contact with Travel questions:

Jan.vitus@state.or.us 503-947-7278

Lorna.keyes@state.or.us 503-947-7249

DEFENSE WITHIN LIMITS

ORS 742.063

- APPLIES TO LIABILITY ONLY
- PROMINENT NOTICE REQUIRED
- When a liability policy includes defense costs within the aggregate limit of insurance, a notice is required either at the top of the Declarations page, or at the top of the policy/coverage form.

DOMESTIC PARTNERSHIPS

ORS 106.300 – ORS 106.340

- Between two individuals of the same sex
- At least 18 years of age
- One party must reside in Oregon
- Marriages between same sex couples that occur in other states must be recognized in Oregon.

GOVERNING LAW

ORS 742.018

- ALL POLICIES MUST BE CONSTRUED ACCORDING TO THE LAWS OF OREGON

VACANT BUILDINGS

ORS 742.216

- A building is not considered vacant until it has been vacated or unoccupied beyond 60 days.
- Applies to all perils:
- Fire
- Vandalism
- Theft
- Other applicable perils
- While the statute applies to a fire policy, we require the policy language to be consistent. This means vandalism and breakage of glass should also be covered when the building has been vacant or unoccupied beyond 60 days.

STANDARDS

We hope to review the Standards on five year cycle. To locate:

- Enter Oregon Insurance Division: home, next click
- For Insurers-Rates and Forms
- Product Standards Review-Current Forms List you are there.

See Review Schedule Date and if it is required to be filed completed.

Standards may be changed more frequently due to legislative changes.

www.oregoninsurance.org

YOUR FILING'S JOURNEY

You send the filing through SERFF and it is downloaded.
The “intake” staff performs a cursory review and assigns the filing.
Combined filings have both an actuary and analyst assigned.

The Analyst opens and reviews the filing.
Incorrect filings are sent back for correction.
When correct, the approved filings are “returned” through SERFF.

We are paperless, so we require that you keep the approval record for at least five years. See Bulletin INS 2006-5, page 2, # 5 at the bottom.

FRAUD

The Fraud notice may appear in either the Application or Policy. 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 the person “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 prosecution, criminal, or civil penalties. The statement is considered fraudulent if it is material, intentional, willfully done and relied upon.

Insurers should review bulletin INS 2010-3 and the Oregon Revised Statutes to determine compliance.

See line-specific fraud verbiage for property in ORS 742.208.

BRACKETS

- Brackets have been used in other lines for some time.
- We prefer that you do not use brackets.
- Brackets are used in the industry when an alternative form may be used.
- When brackets are used an accompanying “Statement of Variability” (Memo of Variability, Explanation of Variability, etc.) should be filed.
- The “Statement” is to be filed under the “Supporting Documentation” tab, not the Form Schedule.
- If you wish to use brackets they should be easily understood.
- We would urge you to file complete forms without variability.

BRACKETS

We have allowed brackets to be used in the following cases:

- Policy jacket (signatures)
- Phone numbers
- Contacts
- Addresses
- Plan Name
- Logo look

BRACKETS Continued

Must not be bracketed:

- Rates and Rules
- Financial Regulated items
- You can only bracket for ranges you actually have filed for.

FONT SIZE

- Oregon currently requires minimum 10-point type throughout insurance for any product.
- There is now an administrative rule underway that has minimum of 10-point type.
- However, due to a Federal mandate of minimum 12-point the OAR(Oregon Administrative Rules) might have to be changed before it can go to press.

NEW & INNOVATIVE Products, Forms, or Programs

We staff these subjects within the Division, so you want to give us plenty of lead time and detail when floating these ideas with us.

- Does the form allow for a rebate or inducement to purchase insurance? ORS 746.035 (Inducements), ORS 746.045 (Rebating)
- Other “gifts”
- Affinity Group Marketing and Fictitious Groups – ORS 737.600; OAR 836-042-0300 to 836-042-0322
- Unfair discrimination ORS 746.015 and OAR 836-081-0005 to OAR 836-081-0030
- Is the proposed product “insurance”?

Who to contact with questions?

Jan.vitus@state.or.us

503-947-7278

INTERLINE VS. MULTI-LINE

GENERIC ONE-SUBJECT ENDORSEMENT FORMS THAT CAN BE USED WITH ANY PROPERTY/CASUALTY POLICY MAY BE FILED AS “INTERLINE”.

Examples: fraud warning, domestic partnership law, exclusions that do not refer to any specific line of insurance or section within a policy form.

INTERLINE FORMS ONLY NEED TO BE FILED ONCE BY THAT COMPANY 😊

It is not necessary to file forms for each individual program within a line of business.

MULTI-LINE or CMP (Commercial Multi-Peril), CAN BE USED WHEN A FORM IS DESIGNED FOR USE WITH MORE THAN ONE LINE OF BUSINESS AND SPECIFIES AT THE TOP OF THE FORM THAT IT APPLIES TO MORE THAN ONE LINE.

For Example:

ASBESTOS EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

COMMERCIAL GENERAL LIABILITY COVERAGE PART

POLLUTION LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS LIABILITY
COVERAGE PART

WHEN TO USE CMP CODING – AND WHEN TO FILE BY LINE OF BUSINESS

We expect forms to be filed by the appropriate line of insurance. That way we can track by TOI and sub-TOI to respond to consumer complaints; respond to inquiries from the Director; or research issues for the legislature. The form can be used on either a mono-line policy basis or on a package policy basis.

MULTI-LINE VERSUS MONO-LINE

- If a form states in its title it only applies to Commercial Liability, then file it under the TOI 17. If it only applies to Commercial Auto, then use that TOI. If the form is a Businessowners form, and is identified as such, then file using the CMP TOI and the BOP sub-TOI.
- If the form shows at the top of the first page that it can be used on a variety of policy types, or coverage parts (Commercial Liability, Commercial Auto, Property Coverage, Crime, Inland Marine, etc.) then use CMP coding because the form is a “multi-line” form.
- If the company will only use the filed forms to write a specific product or program (a specialty product), and only on a package basis, then CMP coding might be appropriate even if some of the forms in the Form Schedule are line specific.

CANCELLATION FOR COMMERCIAL CASUALTY AND PACKAGE POLICIES

ORS 742.702

A policy in effect for 60 or more days may be canceled prior to policy expiration only for specified reasons:

- (a) Nonpayment of premium.
- (b) Fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy.
- (c) Substantial increase in the risk of loss after insurance coverage has been issued or renewed, including but not limited to an increase in exposure due to rules, legislation or court decision.
- (d) Failure to comply with reasonable loss-control recommendations.
- (e) Substantial breach of contractual duties, conditions, or warranties.
- (f) Determination that the continuation of a line of insurance or class of business will jeopardize a company's solvency, or will place the insurer in violation of the insurance laws of Oregon or any other state.
- (g) Loss or decrease in reinsurance covering the risk. (h) Any other reason approved by the director by rule.

CANCELLATION ADVANCE NOTICE TO POLICYHOLDER – COMMERCIAL

- ORS 742.702 (2): at least **10-working days** advance notice
- ORS 742.708: plus 3-days mailing time [not mandatory to be in the policy, but insurer must follow the statute when sending notice of cancellation or non-renewal]
- OAR 836-085-0010 (2): if policy includes fire coverage there must be a 30-day advance notice
- Automobile – ORS 742.562 and 742.564 – 10 days non-payment, 30 days any other reason
- Contractual Liability Reimbursement Insurance (for service contracts, home service agreements, and vehicle protection product warranties): must provide notice to the Director not less than 30-days in advance of cancellation or non-renewal. See ORS 742.392 and OAR 836-200-0130.*

*Recommendation: Since the insurer must provide the director with a 30-day advance notice before the cancellation can take effect, why not use 30-days for the policyholder (obligor or warrantor) as well.

All notices of cancellation or non-renewal/renewal on altered terms must include the reason(s) for cancellation or non-renewal.

CANCELLATION ADVANCE NOTICE TO POLICYHOLDER – PERSONAL

- Property – ORS 742.224 – 10-days for non-payment, 30-days for any other reason
- Casualty – ORS 742.702 – 10 working days (with property=30 days)
- Automobile – ORS 742.562 and 742.564 (10 days non-payment, 30 days any other reason)
- Homeowners – Cancellation of these policies must comply with ORS 746.687 (Homeowner Protection Act). 10-day notice for non-payment of premium, and 30-day notice for any other allowable reason.

NONRENEWAL OR RENEWAL ON ALTERED TERMS – COMMERCIAL INSURANCE

- ORS 742.706 (1) & OAR 836-085-0025: If an insurer offers to renew on terms less favorable or at higher rates, the new terms or rates may take effect on the renewal date with 45 days' written notice. If the insurer does not provide such notice, the insured may cancel the renewal policy within 45 days. Earned premium for the period during which the renewal policy was in force shall be calculated pro rata at the lower of the current or previous year's rate. If the insured accepts the renewal, changes shall be effective immediately following the prior policy's expiration date.
- ORS 742.706 (2): Nonrenewal is not effective until at least 45 days after the insured receives a written notice of nonrenewal. If, after an insurer provides a notice of nonrenewal as described in this statute, the insurer extends the policy 90 days or less, an additional notice of nonrenewal is not required with respect to the extension.
- ORS 742.706 (4) & OAR 836-085-0015: If the policy is issued for a term longer than one year, and for additional consideration the premium is guaranteed for the term of that policy, the insurer may not refuse to renew the policy or increase the premium.

NONRENEWAL OR RENEWAL ON ALTERED TERMS – PERSONAL INSURANCE

- Property – ORS 742.224 (30-days advance notice)
- Casualty – ORS 742.702 (45 days advance notice)
- Automobile – ORS 742.566 (30-days advance notice)
- Any cancellation notice or non-renewal/renewal on altered terms notice must include the reason(s) why.

SERVICE CONTRACT REIMBURSEMENT LIABILITY POLICY (CLIP'S)

Applicable product standards checklist: 440-3623 (7/11/INS)

Oregon has some unique requirements for CLIP policies issued to registered service contract obligors and vehicle protection product warrantors.

- OBLIGOR'S NOTICE TO THE DIRECTOR – ORS 742.392

An insurer that issues a reimbursement insurance policy shall not terminate the policy until a notice of termination has been mailed or delivered to the Director of the Department of Consumer and Business Services. The notice of termination shall be mailed or delivered to the director at least 30 days prior to the date of termination. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts sold by or on behalf of obligors prior to the date of the termination.

(CLIP'S) continued

- WARRANTOR'S NOTICE TO THE DIRECTOR – ORS 742.392

An insurer that issues a reimbursement insurance policy shall not terminate the policy until a notice of termination has been mailed or delivered to the Director of the Department of Consumer and Business Services. The notice of termination shall be mailed or delivered to the director at least 30 days prior to the date of termination. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts sold by or on behalf of obligors prior to the date of the termination.

- OAR 836-200-0130

1) A reimbursement insurer must deliver to the warrantor and the Director of the Department of Consumer and Business Services the written notice of cancellation for a reimbursement insurance policy as required by section 6(2), ch. 685, Oregon Laws 2007 not later than 30 days prior to the effective date of the cancellation.

“GROUP” FORM FILINGS – When can you file a form for a group of companies?

- An insurer may submit one SERFF Filing for multiple companies in the same corporate group.
- List all the companies under the Companies and Contact tab.
- Any form listed under the Form Schedule tab must be used by each company.
- Otherwise, separate form filings must be made for each company in the group.
- Do not submit a replaced form as a group filing unless the form being replaced was previously approved for all of the companies in the group.
- The SERFF Tracking number/s or state filing number/s that was/were assigned previously must be included under the Action Specific Data column.
- Oregon General Filing Instructions for Property/Casualty in SERFF under the Filing Rules

HOW TO CORRECTLY COMPLETE THE FORM SCHEDULE TAB

- Form number and form name must exactly match the form number and the form name assigned to the form submitted for approval.
- The edition date needs to be included only under the Form Number tab unless it is completely separate from the form number. For example: the form number is in the lower left corner and the edition date is in the lower right corner.
- PLEASE DO NOT ENTER THE EDITION DATE IN BOTH THE FORM NUMBER COLUMN AND THE EDITION DATE COLUMN! Intake staff will write an objection if you do.
- Duplicate forms do not need to be submitted.
- Send a Note to Reviewer in the original filing to let us know the forms will be used with an additional program or product.
- Form Type and Action columns are self-explanatory.

HOW TO CORRECTLY COMPLETE THE FORM SCHEDULE TAB, Continued

- The Action Specific Data column needs to be correctly completed.
- If the filing was submitted pre 2011, provide the Oregon State Filing Number.
- If after 2011, provide the SERFF Tracking Number.
- Do not provide the Company Tracking Number.
- Provide the exact form number of the form that is being replaced.
- If the replaced form was submitted as a group filing, be sure to verify that the form was approved for the same companies that the new forms will be used with.
- Oregon does NOT accept “me too” filings.
- Forms must be submitted under the Form Schedule Tab.

Bulletin INS 2006-5, page 2, # 5 at the bottom.

SERFF TRAINING

Available through the NAIC

816-783-8990

www.serff.com

We encourage you to visit the Home Page for SERFF. There is a link on the left side of the page that you can click to access training information.

INLAND MARINE – WHAT DOES “Non-Filed” Mean in Oregon?

All forms are required to be filed for prior approval per ORS 742.003, unless it is a form designed for use on a single policy (manuscript)- see (3).

See the web site, Rates and Forms, Filing Requirements, Inland Marine, #5 – 2010 Revised Inland Marine form, rate, and rule filing guidelines

<http://www.oregon.gov/DCBS/insurance/insurers/rates-forms/Documents/2010-revised-inland-marine-guidelines.pdf>

ISO INLAND MARINE HANDBOOK

All IH forms must be filed by the individual company wishing to adopt them. The bureau does not file these forms on behalf of members and subscribers. The forms will be listed in the Form Schedule tab with the PDF of the form attached.

The company must make their own independent filing of the ISO Inland Marine Handbook rules they wish to adopt. Manual pages will be placed under the Rate/Rule tab. Actuarial documentation is placed under the Supporting Documentation tab area of SERFF.

ASSUMPTION/MERGER/ACQUISITION/NAME CHANGE/LOGO CHANGE/WITHDRAW FROM A LINE OF BUSINESS/DISCONTINUANCE OF A PRODUCT

- Use Changes to Business Operations product standards checklist 440-3637.
- A FORM FILING WILL BE NECESSARY TO GAIN APPROVAL OF A POLICY ENDORSEMENT for any of these actions.
- The filing explanation must clearly advise us of the action being taken.
- The filing should be made well ahead of the proposed implementation date.
- If withdrawing, a list of forms being discontinued must be provided.

Persons to contact for questions or assistance:

Tammy.vance@state.or.us 503-947-7236

Tashia.m.sample@state.or.us 503-947-7210

Jan.vitus@state.or.us 503-947-7278

BUREAU ADOPTION/NON-ADOPTION/DELAYED ADOPTION – What to file, how, and when [applies to forms, rules, and loss costs]

This process only applies if the insurance company is a member or subscriber and has given the bureau authority to file on its behalf.

NON-ADOPT – When the insurer does not wish to use a specific bureau reference that has been filed on their behalf. The SERFF filing must be made before the bureau’s effective date. If the insurer later decides they wish to adopt, a new **ADOPT** filing must be made;

ADOPT – Applies when the insurer initially advised us they would not adopt a given bureau reference, or they tell us they wish to delay indefinitely. Bureau reference numbers must be placed on the first screen in SERFF, and an effective date should be entered in the appropriate field.

DELAY ADOPTION – When the insurer wishes to use a different implementation/effective date than that filed by the bureau. The SERFF filing must be made before the bureau’s effective date. Bureau reference numbers must be placed on the first screen in SERFF, and an effective date should be entered in the appropriate field.

Who to contact with Adopt/non-adopt/delay adopt questions:

Jan.vitus@state.or.us 503-947-7278

Lorna.keyes@state.or.us 503-947-7249

ARBITRATION

ORS 36.600-36.740

- Arbitration is an alternative that is not to be forced upon you.
- Arbitration is binding only on the party(s) who has agreed to arbitrate.
- Arbitration is to take place in Oregon(unless another location is mutually agreed upon) and under Oregon law.
- Arbitration does not remove the access to the court.
- The agreement should state who and what fees and costs are charged to which parties.

APPRAISAL

ORS742.232

- Case Law indicates the party who has not agreed to appraisal at the time of dispute cannot be bound by the decision.
- Each party chooses an appraiser within twenty days, who then select a third impartial appraiser-umpire.
- Expenses are divided equally between the insurance company and the insured.
- The appraisal decision can be binding.

E-ALERT (previously known as E-NOTIFY)

- When you want to hear it first!
- Sign up through www.oregoninsurance.org
- Click on e-Alert
- Enter your E-mail address.
- Click on subscriber preference. (in blue)
- Select or modify the subjects that you are interested.
- Click on Submit.

E-ALERT Continued

The following is an example of what you will receive via E-mail from us that lets you know you have been added to e-Alert.

You subscribe to topics:

- Annual statement Instructions
- Company changes
- Company information
- Compliant statistics
- Information for insurance producers
- Property & Casualty insurance issues

HELP!

Help is just a call away or e-mail:

- Manager: Eric Cutler-503-749-7270,
eric.j.cutler@state.or.us
- Analyst: Rolf Junge-503-749-7229,
rolf.a.junge@state.or.us
- Analyst: Lorna Keys-503-749-7249,
lorna.keyes@state.or.us
- Analyst: Jan Vitus-503-749-7278,
jan.vitus@state.or.us

Thank you!

Questions!

Online viewers: Submit questions during the training at insurance.video@state.or.us

Our Web site

www.insurance.oregon.gov