

Modifications and Discontinuances



OREGON INSURANCE DIVISION

For online viewers, during this live presentation,
send questions to:

insurance.video@state.or.us

Modification and Discontinuances Training agenda



- Introductions
- Reminders
- Understanding modifications and discontinuances
 - For non-metal level plans
 - For metal level plans
- Filing requirements
- Notification requirements
- Helpful links
- Questions and answers
 - Online viewers, send questions during the presentation to:
insurance.video@state.or.us

Reminders



- Product standard comments due back by close of business today.

Product standards



- Form 440-2896
 - Applies to plans that are not subject to metal level requirements.
 - Changes:
 - ✦ Removed references to portability
 - ✦ Updated statute and rule citations
- Form 440-2896b (new)
 - Applies to plans that are subject to metal level requirements.
 - Very similar to Form 440-2896.
 - Key differences:
 - ✦ Plan numbers
 - ✦ Plan names
 - ✦ Binder tracking number
 - ✦ Actuarial value information
 - ✦ No references to portability
 - **Shortcut:**
 - ✦ For plans that have binders, the side-by-side comparison may be achieved by listing binder and plan numbers

Applicable regulations



- ORS 743.766
- ORS 743.737
- ORS 743.754
- OAR 836-053-0001
- OAR 836-053-0002
- 42 U.S.C. 18022(d)

Understanding modifications and discontinuances – Pre-2014



- Individual and small group policies and certificates not subject to level of coverage requirements (issued prior to 1/1/2014).
- Large group policies.

Applicable regulations



- OAR 836-053-0001
 - Applies to health benefit plans ***not subject*** to level of coverage requirements found in 42 U.S.C. 18022(d)
 - ✦ Individual and small group health benefit plans issued before 1/1/2014.
 - ✦ Large group plans.
- 42 U.S.C. 18022(d)
 - Defines level of coverage as the bronze, silver, gold, and platinum level plans.
- ORS 743.737
- ORS 743.754
- ORS 743.766

Modifications versus discontinuances



- Modifications are benefit increases or decreases that result in an actuarial valuation change of **less than ten percent** in the aggregate to the policyholder. (OAR 836-053-0001(2))
- Discontinuances are benefit increases or decreases that result in an actuarial valuation alteration of **more than ten percent** or when a change in eligibility requirements excludes a class of enrollees covered under the current plan. (OAR 836-053-0001(2))

Understanding modifications



- Modifications that require filing and notification are:
 - One or more increases or decreases in the services or benefits covered in a health benefit plan.
 - ✦ Elimination or addition of benefits payable under the plan.
 - ✦ Increases or decreases of benefits payable under the plan.
 - Including changes in formulas, methodologies, or schedules that serve as the basis for making benefit determinations.
 - ✦ Increases or decreases in deductibles, copayments or other amounts paid by enrollees.
 - ✦ New conditions or requirements for obtaining services or benefits under the plan.
 - Such as prior authorization requirements.
 - ✦ Eliminating conditions or requirements for obtaining services or benefits under the plan.
 - Such as changing the prior authorization requirements.

Understanding modifications



- Modifications that do not require filing and notification:
 - A carrier's normal and customary administrative changes that do not have an actuarial impact, such as:
 - ✦ Formulary changes.
 - ✦ Utilization management protocols.
 - ✦ Changes to pharmacy prior authorization requirements when additional requirements are met.
 - ✦ Changes to non-pharmacy prior authorization requirements that are made at times other than renewal when additional requirements are met.
 - ✦ A decrease or increase due to changes in federal law.

Understanding modifications



- Changes to pharmacy prior authorization requirements require:
 - **48 hours before the change** you must post a description of the prior authorization requirement change on your website.
 - ✦ Website must be easily assessable to both the enrollee and the provider.
 - ✦ Company must provide a link on their homepage of the website.
- Changes to non-pharmacy prior authorization requirements require:
 - A reasonable and good faith effort to identify all enrollees affected by the changes.
 - A reasonable and good faith effort to identify providers who provide a service or treatment affected by the change.
 - **Notification of all enrollees and providers** impacted by the changes at least **60 days in advance of the effective date.**
 - A description of the prior authorization change requirement posted to your website.
 - ✦ Website must be easily assessable to both enrollee and provider.
 - ✦ Company must provide a link on their homepage of the website.
 - Coverage to the extent otherwise payable under the terms of the contract, and without penalty, any claim for services or treatments affected by the changes to prior authorization requirements of an enrollee if the insurer fails to provide notice of the change.

Understanding discontinuances



- Benefit changes that result in an aggregate actuarial value change of more than 10%.
- Group eligibility requirements change to exclude a class of enrollees.
- A company decision to leave the market.

Understanding Modifications and Discontinuances – Post-2014



- Individual and small group policies and certificates subject to level of coverage requirements (issued on or after 1/1/2014).

Applicable regulations



- OAR 836-053-0002
 - Applies to health benefit plans **subject** to level of coverage requirements found in 42 U.S.C. 18022(d).
- 42 U.S.C. 18022(d)
 - Defines level of coverage as the bronze, silver, gold and platinum level plans.
- ORS 743.737
- ORS 743.766

Current Oregon rules



- **Modifications**

- ✦ One or more increases or decreases in the covered services or benefits that occurs at the time of renewal and **does not alter the metal level** as defined in 42 U.S.C. 18022(d). (OAR 836-053-0002(2))

- **Discontinuances**

- ✦ One or more increases or decreases in the covered services or benefits that occurs at the time of renewal and **alters the metal level** 42 U.S.C. 18022(d). (OAR 836-053-0002 (3))

Proposed federal rule: CMS-9949-P



- Defines modification of coverage.
- Sets limits to modifications.
 - If a modification is outside of the ranges listed by the rule it would be considered a product withdrawal.
- Standard consumer notices when discontinuing or renewing coverage in the group and individual markets.
 - Four proposed notices can be found at:
<http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/draft-discontinuance-renewal-notices-03-14-14.pdf>

Member notification requirements



- Applicable to all modifications and discontinuances.

Discontinuance notification requirements



- **Individual**

- ✦ Discontinuing **all** individual health benefit plans in the state or in a specified service area: **180 days notice** (ORS 743.766(4)(c)(B))
- ✦ Discontinuing **an** individual health benefit plan in the state or in a specified service area: **90 days notice** (ORS 743.766 (4)(e))
- ✦ Discontinuing offering or renewing individual health benefit plans in a service area due to an inability to reach an agreement with the health care providers in a service area: **90 days notice** (ORS 743.766(4)(c)(C))

- **Small group**

- ✦ Discontinuing **all** small employer health benefit plans in the state or in a specified service area: **180 days notice** (ORS 743.737(3)(e)(B))
- ✦ Discontinuing **a** small employer health benefit plan in the state or in a specified service area: **90 days notice** (ORS 743.737(3)(g))
- ✦ Discontinuing offering or renewing small employer health benefit plans in a service area due to an inability to reach an agreement with the health care providers in a service area: **90 days notice** (ORS 743.737(3)(e)(f))

- **Large group**

- ✦ Discontinuing **all** group health benefit plans in the state or in a specified service area: **180 days notice** (ORS 743.754(5)(e)(B))
- ✦ Discontinuing **a** group health benefit plan in the stat or in the specified service area: **90 days notice** (ORS 743.754(5)(g))
- ✦ Discontinuing offering or renewing group health benefits plans in a service area due to an inability to reach an agreement with the health care providers in a service area: **90 days notice** (ORS 743.754(5)(f))

Modification notification requirements



- Plans that are not subject to metal level requirements must provide at least 30 days notice to members (OAR 836-053-0001(3))
- Plans that are subject to metal level requirements:
 - Awaiting additional guidance
 - ✦ PHSA 2715
 - 60 days

Member notices



Should:

- Explain replacement options
- State which benefits are changing
- Contain insurer contact information, including website
- Inform members about Cover Oregon

Should not:

- Be inaccurate or misleading
- Contain small font

Filing requirements



- Applicable to all modifications and discontinuances.

Filing requirements



- Product standard Forms 440-2896 or 440-2836b.
- Three filing options:
 - ✦ Within the rate filing, *or*
 - ✦ Within the form filing, *or*
 - ✦ In a separate filing
- Notice to the policyholder.
- An actuarial demonstration describing the changes in the benefits or rates.
- A chart showing the percentages of premiums for the added or discontinued benefits and the sum of changes.
 - ✦ Must prove the change is a modification or discontinuation.
- A description of the data used to develop the value for the benefits.
- A list of changes in the modification including a side by side comparison showing the previous benefit structure compared to the new benefit structure.
 - ✦ Language changes that constitute a benefit change must be included in the side by side comparison.
- A mapping document that shows the new plan closest to the plan being discontinued.
- A statement as to why the changes are needed.
- How many members will be impacted by the modification or discontinuance.

Common objections



- How many people will be affected by the modification or discontinuance?
- When will the change take place?
- When will the modification or discontinuance take place?
- Have you mapped replacement policies?
- Why is the change necessary?
- Who should members of discontinued plans contact?

Additional things to consider



- When you are ready to submit your modification or discontinuance filing, contact me:
 - ✦ tashia.m.sample@state.or.us
 - ✦ 503-947-7210
- Don't feel obligated to submit the information with the form or rate filing if it is not ready.
- The filing should be made 60 days prior to the date the notice will be sent to the consumer.

Helpful links



- Oregon Insurance Division (OID) website: www.insurance.oregon.gov
- OID Rates and Forms page: <http://www.oregon.gov/DCBS/insurance/insurers/rates-forms/Pages/rates-forms.aspx>
- Health filing requirements (where modification and discontinuance product standards can be found): <http://www.oregon.gov/DCBS/insurance/insurers/rates-forms/filing/Pages/Health/health.aspx>
- 2013 Oregon Revised Statutes: http://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx
- Oregon Administrative Rules, Insurance Division, Chapter 836: <http://www.oregon.gov/DCBS/insurance/legal/laws/Pages/oars.aspx>
- OID E-Notify sign-up or to adjust subscriber preferences: <https://public.govdelivery.com/accounts/ORDCBS/subscriber/new?qsp=276>
- Rates and Forms Training website (all materials from our trainings and archived training videos are found here): <http://www.oregon.gov/DCBS/insurance/insurers/rates-forms/Pages/training.aspx>
- CMS-9949-P Proposed Notices: <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/draft-discontinuance-renewal-notices-03-14-14.pdf>

Questions?



For online viewers, send questions to:

insurance.video@state.or.us

Contact:

Tashia Sample, Forms Analyst

503-947-7210

tashia.m.sample@state.or.us

www.insurance.oregon.gov