

EMERGENCY ORDER FAQs

May 6, 2020

The Oregon Department of Consumer and Business Services issued an [emergency order](#) on March 25, 2020. The order provides protection to people and businesses struggling because of the disruptions caused by the COVID-19 outbreak. The order requires all insurance companies to postpone policy cancellations and nonrenewals, extend grace periods for premium payments, and extend deadlines for reporting claims.

Postponement of policy cancellations and nonrenewals is not limited to nonpayment. This provides protection to some people and businesses in need of relief and ongoing insurance coverage.

The Division of Financial Regulation is sharing the frequently asked questions it has received to help insurers comply with the department's order. The FAQs will be updated regularly.

The division encourages insurers or other stakeholders to submit more questions about the order by email to dfr.policyteam@oregon.gov.

General questions

1. Does the order prohibit voluntary cancellations and nonrenewals?

No. If an insured requests cancellation or nonrenewal, the insurer should follow the insured's direction. The order prohibits insurers from canceling or nonrenewing policies without the consent of the insured for the duration of the order.

2. Does the order prohibit an insurer from renewing a policy according to standard procedures, including making a premium change for a policy at renewal?

No, it applies to cancellations or nonrenewals for the duration of the order. Renewals may proceed as normal, including making an otherwise permissible premium change.

3. Does the order prohibit cancellations for reasons other than nonpayment?

The order prohibits many types of cancellations and nonrenewals for the duration of the order. However, some cancellations and nonrenewals may be appropriate and permitted. Therefore, the department will exercise enforcement discretion now and after the order expires if an insurer cancels or nonrenews a policy for certain reasons. While the order is in place, an insurer may cancel or nonrenew a policy for the following reasons:

- Voluntary or requested cancellation or nonrenewal
- Fraud or intentional misrepresentation of a material fact as prohibited by the terms of an insurance policy
- Criminal conduct as prohibited by the terms of an insurance policy

- Cancellation during the first 60 days of a property and casualty policy, during which the insurer is underwriting the policy, as long as a minimum 10-day notice is provided
- A notice of the cancellation or nonrenewal was issued before the governor's Executive Order 20-07 (March 17, 2020), in compliance with all applicable laws and administrative rules
- The insurer has obtained evidence that the insured secured new coverage with another insurer
- Cancellation or nonrenewal is required by applicable state or federal law
- Cancellation or nonrenewal of a property and casualty policy permitted under FAQ No. 14

Insurers who believe other situations should be included are encouraged to email the division at dfr.policyteam@oregon.gov.

4. The order prohibits cancellation of a policy due to a claim resulting from the COVID-19 outbreak, except in case of fraud. What does this mean?

Section 12(a) of the order prohibits all involuntary cancellations while it is in effect. Section 12(e) applies after the order expires. It prohibits insurers from canceling a policy due to claims related to the effect of the outbreak, except in instances of fraud or intentional misrepresentation.

5. Does the order require insurers to offer all means of telephonic and electronic reporting of claims and other communications?

No, it requires insurers to take all practicable steps to make reporting and communication methods available that are compatible with social distancing recommendations. It does not require insurers to adopt all possible methods for all forms of reporting and communication. For example, it does not require insurers to accept claims submitted solely by telephone call, without supporting documentation that may be necessary to substantiate the claim.

6. Does the order apply to surplus lines insurance?

The department strongly encourages surplus lines insurers to provide comparable relief to Oregon insureds, but the order does not apply to surplus lines.

7. How does the order apply to premium finance companies?

Premium finance companies are encouraged to provide a 30-day grace period for payments and take other reasonable actions to help customers affected by COVID-19. Any notice given by a premium finance company should be consistent with state requirements and with the terms of the agreement.

In order to encourage insurance coverage for consumers, premium finance companies should not pursue any default actions for the duration of the outbreak.

8. The order provides relief from deadlines for insureds to report claims and submit communications related to claims. Will the department provide comparable relief for insurance companies?

The order is focused on relief for consumers. The department is carefully considering the effect of the COVID-19 outbreak on insurer operations and will issue guidance as appropriate.

9. Some insurers may already be out of compliance with the order and may take time to achieve compliance. Will the department provide any leeway for companies in this situation?

The department expects insurers to immediately make good faith efforts to comply with the order. It will exercise appropriate discretion in enforcement, understanding that it may take time for companies to achieve full compliance. The department encourages insurers to contact them if full compliance is unexpectedly delayed.

10. Federal action related to the issues addressed by the order may be forthcoming. Why has the department released the order now?

The department released the order to provide Oregon consumers and businesses with immediate relief. The department may take more action in response to any federal action affecting the order as appropriate.

11. Does the order alter any state statutes of limitation?

The order does not alter any statutes of limitations.

12. If a policyholder fails to make the required initial premium payment, can the insurer cancel the newly issued policy back to the policy effective date?

No, an insurer may not cancel any policy for nonpayment of premium while the emergency order is in place.

Health insurance – An [emergency order for health insurers](#) was issued on May 5, 2020. For health insurance, this order supersedes the March 25 order.

13. How does the order apply when an employer offering a health benefit plan is no longer eligible for its group plan due to a change in group size?

Insurers offering health benefit plans are reminded that the department’s guidance on employee counting is based on the average number of employees during the previous calendar year.¹ Consistent with that guidance, insurers offering health benefit plans should consider group size only at the time of renewal. These insurers may not cancel a group health benefit plan policy based on a change in the number of employees during a contract year.

At the time of renewal, the insurer may review the number of employees over the previous year for the purpose of assigning the group into the appropriate market, consistent with the division’s guidance on employee counting.

Insurers offering health benefit plans are also reminded that, even if an employer’s market size has changed, the employer is still entitled to guaranteed issue in the small or large employer

¹ See: https://dfr.oregon.gov/laws-rules/Documents/OAR/div53-0015_exA.pdf

market. Accordingly, the insurer must still offer to renew the employer onto any plans the insurer offers in the appropriate market.

Property and casualty insurance

14. Besides the reasons mentioned in FAQ No. 3, what additional reasons may a property and casualty policy be canceled or nonrenewed while the emergency order is in place?

The order prohibits many types of cancellations and nonrenewals for the duration of the order. However, some cancellations and nonrenewals may be appropriate and permitted. Therefore, the department will exercise enforcement discretion now and after the order expires if an insurer cancels or nonrenews a policy for certain reasons.

While the order is in place, a property and casualty insurer may **not** cancel or nonrenew a policy if the decision is based on any of the following reasons:

- Nonpayment of premium
- Failure of the insured to provide information or documentation to the insurer, including documentation of repairs and risk mitigation efforts
- A claim directly resulting from the circumstances of the COVID-19 outbreak
- Increased risk resulting from the COVID-19 outbreak

For commercial lines policies, increased risk resulting from the provision of goods or services related to:

- Food
- Shelter
- Essential consumer needs
- Education
- Health care
- Emergency services
- Government services
- Care for elderly people, minors, people with disabilities, or other vulnerable people
- Any good or service at the direction of a government official

15. Does the order prohibit cancellations during the initial 60-day underwriting period?

No, some cancellations and nonrenewals may be appropriate and permitted. Cancellation during the first 60 days of a property and casualty policy, during which the insurer is underwriting the policy is one of the reason an insurer is allowed to cancel a policy, as long as a minimum 10-day notice is provided.

16. How does the order apply to insureds that may have received a notice of cancellation or nonrenewal weeks before the order?

If a notice was sent to the insured in accordance with all applicable laws and administrative rules before March 17, 2020, the cancellation or nonrenewal may proceed according to the terms of the policy and the notice.

17. How does the order apply to insureds that may have switched coverage after receiving a notice of cancellation or nonrenewal? Does the order require that they have double coverage?

No, insureds are not required to have double coverage. For insureds who were sent a notice of involuntary cancellation or nonrenewal on or after March 17, 2020, and if the insurer does not have evidence that the insured secured new coverage, the insurer must contact the insured and inform them they have a right to continue coverage through the duration of the order. The insured may voluntarily elect not to be covered by the insurer.

18. Does the order prohibit business interruption coverage from denying a claim related to the COVID-19 outbreak if the policy has an exclusion for disease outbreaks?

The order does not alter the terms of coverage for any insurance policy.

19. Due to the COVID-19, some commercial buildings are being repurposed into necessary businesses, such as medical facilities and child care facilities. Does the department intend for existing policies to cover the new risks taken on by repurposing commercial buildings?

The order does not alter the terms of coverage for any insurance policy.

Life insurance

20. How does the order work with products that already allow for a grace period? For example, if the policy allows for a 30-day grace period, and the order was issued during the policy grace period, does the insured receive the remainder of the policy grace period after the expiration of the order?

For policies in a grace period before the date of the order, the duration of the orders may not be counted toward the scheduled date of cancellation or nonrenewal. For example, if a policy provided for a 15-day grace period and the order was issued five days after the due date under that policy, the insurer must provide a minimum of 10 days after the order is lifted to pay any outstanding premium.

21. How does the order apply to insureds who may have received a notice of cancellation or nonrenewal weeks in advance of the order?

If a notice was sent to the insured in accordance with all applicable laws and administrative rules before March 17, 2020, the cancellation or nonrenewal may proceed according to the terms of the policy and the notice.

22. How does the order apply to insureds who may have switched coverage after receiving a notice of cancellation or nonrenewal? Does the order require that they have double coverage?

No, insureds are not required to have double coverage. For insureds who were sent a notice of involuntary cancellation or nonrenewal on or after March 17, 2020, and if the insurer does not have evidence that the insured secured new coverage, the insurer must contact the insured and inform them they have a right to continue coverage through the duration of the order. The insured may voluntarily elect not to be covered by the insurer.

23. How does the order apply to claims processed under plans that are subject to ERISA requirements?

The order is not intended to preempt federal laws related to claims processing and federal laws will continue to govern how claims subject to ERISA are handled.