



# Oregon

Theodore R. Kulongoski, Governor

## Department of Consumer and Business Services

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### SUPPLEMENTAL REPORT OF

#### THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES ON HOUSE BILL 3321 (2007)

In 2007, the legislature enacted House Bill 3321 (2007 Or. Laws ch. 752, codified primarily at ORS 743.734(7)&(8)) to exempt health benefit plans issued to small employer groups through association health plans from the statutes governing small employer group plans, if the association plans meet standards for initial premiums, do not discriminate in membership based on enrollees' health status, and maintain high retention rates. The bill requires the Department of Consumer and Business Services (DCBS) to monitor association health plan data and report the findings to the Legislative Assembly by February 1 of each odd-numbered year. Because data was not available at that time, this report supplements the report submitted by DCBS in February of this year.

Association health plans offer members of an association, who are often small employers, access to group health insurance coverage. In order for an insurer to offer coverage through an association, the association itself must meet certain standards and must have been formed for purposes other than obtaining insurance. The bill was intended to resolve issues related to how small group laws apply to association health plans. House Bill 3321 allows insurers writing association health plans to qualify for an exemption from the small employer rating laws if they meet certain access and retention standards aimed at preventing "cherry-picking," or in other words, providing less-expensive coverage only to the healthiest groups, leaving the less-healthy groups to buy coverage in the general market, which makes the general market less healthy and leads to increased rates over time.

### RESULTS

As directed by House Bill 3321, DCBS is monitoring association health plans to determine the degree to which the claims experience of non-retained association groups exceeds the claims experience of the association's member groups as a whole. Although the provisions of House Bill 3321 became effective July 1, 2007, in order to develop credible data for reporting purposes and because groups typically renew their coverage on an annual basis, DCBS established requirements for insurers to capture this information beginning with association health plans renewing during 2008. Insurers first reported data regarding the claims experience of the non-retained association groups and of the associations as a whole to DCBS on April 1, 2009.

To qualify for the exemption from the small employer health insurance statutes, the association health plans must continue to meet a 95 percent retention rate. The 95 percent retention rate does not include employer groups that:

- Go out of business, whether through merger, acquisition, or any other reason;
- No longer meet eligibility requirements for membership in the association;
- No longer meet participation requirements for employers that are set forth in the plan documents; or
- Fail to pay premium.

Not all insurers authorized to write health insurance in Oregon and who are active in the association market chose to take advantage of the exemption offered by House Bill 3321. These insurers continue to comply with existing statutes governing small employer group health plans.

Only six insurers claimed exemption from the statutes applicable to small employer groups and submitted reports for 2008. Within the 22 associations represented in the insurers' reports, 13 (59%) satisfied the minimum retention rate of 95 percent. The remaining nine (41%) associations failed to meet the required retention rate.

Six of the nine associations failing to meet the required retention rate were issued group health coverage from the same insurer and three other insurers issued group health coverage to the other three associations. These nine association health plans have 12 months to correct the retention level before losing the exemption from small employer health insurance laws.

For the nine associations failing to meet the required retention rate, the overall loss ratio was 89.7% and the aggregate loss ratio for the non-retained member groups was 95.8%. A group's loss ratio represents the percentage of each premium dollar used to pay claims; a higher loss ratio reflects higher claims. The retention rates and differences in loss ratios above may indicate the presence of cherry-picking of member groups and therefore the potential for adverse impact on small employer rates. Additional analysis will be required to determine whether these nine association health plans that have failed to meet the required retention rate are continuing to insure only their member groups with the healthiest employees.

For the nine associations failing to meet the required retention rate, the following chart compares the claims experience of the association as a whole to the claims experience of the non-retained member groups.

Association #	Claims Experience (Loss Ratio) for Association as a Whole	Aggregate Claims Experience (Loss Ratio) for Non-retained Groups of the Association	Retention Rate	Percentage of non-retained groups with loss ratios greater than loss ratio of association as a whole
1	79%	Data not available <sup>1</sup>	50%	Data not available
2	96%	89%	63%	31%
3	91%	101%	84%	45%
4	96%	116%	75%	67%
5	92%	90%	94%	25%
6	72%	137%	90%	100%
7	77%	58%	84%	32%
8	89%	99%	70%	36%
9	81%	96%	87%	44%

## **FUTURE REPORTING**

DCBS will continue to monitor association health plans to determine the degree to which the claims experience of non-retained association groups exceeds the claims experience of the association's member groups as whole and will additionally report to the 2011 and 2013 Legislative Assemblies. House Bill 3321 sunsets on January 2, 2014.

<sup>1</sup> This insurer was not able to provide the data required in order to calculate the results for this report. DCBS is continuing to work with the insurer to obtain this information for review.