

836-053-XXXX

Issuance of Group Health Benefit Plan to Employer Association

(1) As used in this rule, the term “employer association” refers to a trade association or other group of employers that purchases, or wishes to purchase, fully insured group health benefit coverage for its members, employees, or employees of its members. For purposes of this rule, the term does not include a labor union.

(2) A health insurance carrier may not issue a policy of group health benefit coverage to an employer association as the policyholder or offer coverage under such a policy, whether issued in this or another state, unless the Director of the Department of Consumer and Business Services determines that:

(a) The employer association would be allowed to act as the employer that sponsors of the plan under federal law;

(b) The employer association meets the requirements of ORS 731.098; and

(c) Issuance of the policy or coverage would be consistent with the requirements of this rule and the Insurance Code.

(3) A carrier proposing to offer group health benefit coverage to or through an employer association must submit the following information to the division for approval:

(a) A copy of the employer association’s current constitution and bylaws.

(b) A statement describing the purpose of the employer association and demonstrating that the employer association been organized and will be maintained in good faith primarily for purposes other than that of obtaining insurance.

(c) A statement of membership requirements describing any requirements for an employer to become and remain a member of the employer association, including any requirements related to participation in a particular trade business or industry and any geographic requirements.

(A) If only a subset of the association’s employer-members will be eligible to participate in the health plan, the statement of membership requirements must explain any additional requirements that an employer-member must satisfy in order to participate in the plan.

(B) If membership in the employer association is limited to a particular trade, business or industry, the statement of membership requirements must define the trade, business, or industry served by the employer association and describe how the employer association will determine if the requirement is satisfied.

(d) A statement of eligibility describing the types of individuals who will be eligible to enroll in the group health benefit plan coverage issued to the employer association, whether as a subscriber or as a dependent, and any terms or conditions for continued eligibility that will be set by the carrier or by the employer association (e.g. a minimum number of hours worked requirement).

(e) Evidence demonstrating that, for purposes of federal law, an ERISA group health plan exists at the employer association level. Consistent with guidance issued by the U.S. Department of Labor, the filing must demonstrate that:

(A) The employer association maintaining the group health plan and the individuals benefitting from it are tied by a common economic or representational interest, beyond the provision and receipt of welfare benefits (i.e. a commonality of interest); and

(B) The members of the employer association that participate in the plan will exercise control, in both form and substance, over the administration and operation of the health benefit plan coverage.

(f) Copies of the employer association's most recent Form 5500 and M-1 filings submitted to the U.S. Department of Labor or, if these materials are not available, an explanation of why these filings are not available.

(g) If the employer association will offer coverage to small employers, evidence demonstrating that the health benefit plans available to employees of small employers will provide coverage that is substantially equal to Oregon's essential health benefits benchmark at a minimum value of at least 60 percent.

(h) Any additional information requested by the division.

(4) With respect to membership in the employer association or the ability to enroll in health benefit coverage, neither the carrier, the employer association, nor any employer member of the association may discriminate against an individual on the basis of the individual's health status. This subsection does not prevent an employer association or carrier from charging different premium rates to different employer groups within the association, provided the methods used to establish each employer's premium rate are consistent with 45 CFR § 146.121.

(5) An employer association must not allow "working owners" to enroll in health coverage sponsored by the association. For purposes of this rule, the term "working owner" includes sole proprietors and other self-employed individuals who do not employ at least one common law employee.

(6) At least annually, a health insurance carrier offering group health benefit coverage to an employer association must inform the division of any changes to the information required under subsection (3) of this rule.

(7) In the case of an employer association that was approved to offer group health benefit coverage prior to the effective date of this rule, the requirements of this rule become effective on the first date of annual renewal following the effective date of this rule. If an employer association cannot achieve compliance with this rule by that date, the carrier offering coverage to the association may file a transition plan demonstrating how and when the association will come into compliance with any requirements that are not met. The division may allow an employer association to continue offering coverage pursuant to the terms of the transition plan for up to three years.

(8) As a condition of issuing group health benefit coverage to an employer association, a health insurance carrier may require the employer association to provide some or all of the materials described in subsections (3), (6), and (7) of this rule.

Statutory/Other Authority: 731.244, 743.524

Statutes/Other Implemented: ORS 731.098, 743.524

History: