

NOTICE OF PROPOSED RULEMAKING

STATEMENT OF NEED AND FISCAL IMPACT

Filing caption: Amending OAR 836-150-0040 to add ORP payment parameters for plan year 2026.

Public comment deadline: 11/25/2025

Effective Date: 1/1/2026

HEARING:

Date: 11/18/2025

Time: TBD

Officer: Ethan Baldwin

Location: Labor & Industries Building
350 Winter St. NE
Basement, Conf Rm E
Salem, OR 97301

This is a hybrid meeting conducted in-person and virtually via Microsoft Teams:

TBD

NEED FOR RULEMAKING:

The Oregon reinsurance program lowers health insurance premiums by reimbursing health benefit plans for a portion of certain very high cost claims. The program is funded by a combination of state funds and federal pass-through dollars generated under the state's Affordable Care Act §1332 State Innovation Waiver. The waiver has been extended to permit operation of the reinsurance program through 2027. OAR 836-150-0040 sets the program's payment parameters, including the attachment point (minimum claim size covered by the program), coinsurance rate (percentage of the claim covered by the program), and reinsurance cap (the maximum amount the program will pay for any given claim).

Payment parameters for each year are developed in collaboration with the Department of Consumer Services' (DCBS) actuarial contractor NovaRest, and aim to match expected claims paid with budgeted state and federal funds. The final payment parameters for 2026 were provided to carriers in April 2025 to inform rate setting considerations for plan year 2026. The current permanent rule only defines payment parameters through plan year 2025.

Based on the information available to DCBS, the proposed rules would not have any additional fiscal or economic impact on state agencies, local governments, the public, nor small businesses beyond the underlying statutory requirements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:

This amended rule defines payment parameters for the Oregon Reinsurance Program (ORP) for claims incurred during the 2026 benefit year. The new payment parameters are calibrated to maintain the program's existing premium reduction target, effectively maintaining the status quo into 2026. ORP reduces base premiums for health plan enrollees in the individual and small group market. Thus, while adoption of the original rule may have had an impact on equity, this amendment will not result in significant changes for any groups in the state.

FISCAL AND ECONOMIC IMPACT:

This amended rule will define payment parameters for the Oregon Reinsurance Program (ORP) for claims incurred during the 2026 benefit year consistent with information provided to health insurance carriers during Oregon's 2026 rate review process. This will allow the department to disburse federal pass-through funds to Oregon insurance carriers under the specified conditions, mitigating their risk of exposure to unusually high-cost medical claims.

Continued operation of ORP is projected to continue lowering individual insurance premiums by a net of 6%. This will have a financial benefit for consumers in the form of increased choice and lower premiums for at least some insurance purchasers.

COST OF COMPLIANCE FOR SMALL BUSINESSES:

(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.

Based on available information, these proposed rules would have no financial impact on state agencies or local governments. The proposed rules modify, but do not expand, the operational parameters of the Oregon Reinsurance Program, and align state expenditures on the program with currently budgeted state and federal funds.

(2)(a) Estimate the number and type of small businesses subject to the rule(s).

The most direct impact of these proposed rules would be on health insurers. Based on financial filings made to DFR, no insurers meet the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).

The proposed rules effectively extend the status quo into 2025, resulting in no change to expected reporting, recordkeeping, administrative activities, or cost to implement.

(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The proposed rules effectively extend the status quo into 2025, resulting in no change to expected resources necessary to comply with the rules.

How were small businesses involved in the development of the rule?

The department reached out to stakeholder organizations representing small businesses regarding the draft rule.

Was an administrative Rule Advisory Committee (RAC) consulted? Yes.

DCBS convened a rulemaking advisory committee, which included representatives of insurance carriers offering plans on the individual exchange and the insurance buying public.

Did membership of the RAC represent the interests of persons and communities likely to be affected by the rule? Yes.

The proposed rule is not expected to impact any particular community in Oregon, except to the extent that members of many communities act as purchasers of insurance. RAC membership included advocates representing the insurance buying public. As part of the rulemaking process,

we invited feedback from advocates representing LGBTQIA+, BIPOC, and low income communities.

RULE NUMBER AND SUMMARY:

List each rule number and a short summary of what the rule does.

AMEND: OAR 836-150-0040

RULE SUMMARY: The current rule defines payment parameters for ORP for claims incurred during plan years 2019-2025. The amended rule will include payment parameters for plan year 2026 (attachment point of \$108,000; reinsurance cap of \$1,000,000; and coinsurance rate of 50%), while deleting the provisions related to plan year 2021.

STATUTORY REFERENCE:

STATUTORY/OTHER AUTHORITY: ORS 731.244 and Or Laws 2017, ch 538, sec19

STATUTES/OTHER IMPLEMENTED: Or Laws 2017, ch 538, sec 18-21

TK Keen, Interim Insurance Commissioner

Signature

Printed name

Date

LEGISLATOR NOTICE:

If the rulemaking results from legislation passed within two years of this notice of proposed rulemaking, the agency must give notice to: 1) the legislator(s) who introduced the bill; and 2) the chair or co-chairs of all committees that reported the bill out. (Does not include referrals to other committees).

If the rule does not result from legislation within the last two years, notice shall be given to the chair or cochairs of any interim or session committee with authority over the subject matter of the rule. If notice cannot be given to these individuals, notice shall be given to the Speaker of the House and the President of the Senate.

Name	Committee or Title	Email
Representative Rob Nosse	House Behavioral Health & Health Care, Chair	Rep.RobNosse@oregonlegislature.gov
Senator Deb Patterson	Senate Health Care, Chair	Sen.DebPatterson@oregonlegislature.gov

RULEMAKING ADVISORY COMMITTEE:

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