

From: [Brian Landon - LifeWise](#)
To: [HOLMAN Jeannette * DCBS](#)
Subject: Oregon Small Group Expansion
Date: Sunday, October 11, 2015 11:17:12 PM

Dear Jeannette,

I was unable to attend last week's meeting regarding the small group expansion, but my colleague, Megan Howell was able to join the call. Based on the information she provided me, and the October 8, 2015 expansion memo from the Division, I am submitting the following comments on behalf of LifeWise:

- In the October 8, 2014 memo, the Division states, "Under Oregon law, the Oregon Insurance Division (the division) is required to use the definition in place at the time the bill was passed. In this case, the definition appearing in 42 U.S.C. 18024 in June 2015 defined a small employer as an employer with 1-100 employees." LifeWise has never agreed with this reasoning, and the footnote following this statement is blank. Please provide the specific legal citation for this requirement.
- LifeWise does not agree that we should retain the definition of a small employer as an employer with 1-100 FTE employees
 - It seems clear the legislative intent was to link the state definition to the federal definition, which included a potential reversal of the small employer definition back to 1-50. The passage of SB 145 by the State Senate is further evidence of the legislative intent to align the state definition of "small employer" with federal law (as modified). SB 145 actually did change the state definition of "small employer" back to 1-50.
 - The Division's own analysis in their January 15, 2015 memo regarding the small group expansion showed rates for groups in the 1-50 market will increase if the definition of "small employer" is expanded up to 100. This analysis also predicted significant increases for a large number of groups in the 51-100 market, should the definition of "small employer" be expanded up to 100.
 - Per the Division's June 17, 2015 memo regarding the Preliminary 2016 Rate Decisions for Small Group Health Benefit Plans, "As a result of competition and a relatively predictable pool of covered employees and families, the small group market has stabilized in recent years, resulting in smaller year-to-year fluctuations in rates and a mix of financial results for insurance companies. This stability is good for small businesses, their employees, and their families." This stability will be disrupted if the definition of "small employer" is expanded up to 100.
 - Some concern has been raised that groups in the 51-100 market would not have the same protections given the 1-50 groups under the ACA if the definition of "small group" is not expanded up to 100. However, the majority of group plans already cover most, if not all of the PHSA mandates. All this change would do is limit the flexibility of the 51-100 market.

As a result, we strongly encourage the Division to align the definition of "small employer" with federal law, as modified by PACE Act, and keep the state definition at 1-50. If a question remains about the Division's ability to do this, we encourage the Division to delay the expansion up to 100, and work with the legislature to align the state and federal definition once and for all.

If you have any questions regarding these comments, please feel free to contact me directly.

Thanks,
Brian

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