



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

Insurance Division
350 Winter St. NE, Room 440
PO Box 14480
Salem, OR 97301-0405
(503) 947-7980
FAX (503) 378-4351
TTY (503) 947-7280
www.oregoninsurance.org

OREGON INSURANCE DIVISION BULLETIN INS 2004-1

DATE: October 5, 2004
TO: All Health Insurers and Health Care Service Contractors
RE: Commission Rate for Small Employer Health Plans

I. Purpose of Bulletin

It has come to the attention of the Oregon Insurance Division that some health insurance carriers have implemented commission rate practices that are not in compliance with Oregon insurance laws.

These carriers base commission rates for group health plans on the number of employees/enrollees in the group and/or pay a lower percentage of premium or amount per employee/enrollee on groups with less than 10 employees/enrollees than they pay on larger groups.

It is the Insurance Division's position that these practices are not in compliance with Oregon law for the reasons discussed below.

II. Oregon Small Employer Plans

ORS 743.737(8) and (11) and OAR 836-053-0021(5) establish certain requirements for premium rates charged and prohibit financial or other incentives for health benefit plans offered to Oregon small employers as defined by OAR 836-053-0016(1).

The premium rates charged for health benefit plans subject to the preceding requirements are allowed to vary only for certain specified reasons. Neither the number of employees nor the total number of enrollees is an allowable basis for varying premium rates. Since commissions are a component of premium, if the commission rate is a percentage of total premium, the percentage is to be the same regardless of the number of employees or enrollees in the group. If the commission rate is an amount per employee/enrollee, the amount per employee/enrollee is to be the same regardless of the number of employees/enrollees in the group.

III. Oregon Small Employer Plans (2-25) and HIPAA (26-50) Small Employer Plans

ORS 743.736(9) and OAR 836-053-0030(5) require small employer carriers to fairly market all small employer health benefit plans offered by the carrier.

OAR 836-053-0030(6) specifically prohibits a carrier from providing any insurance producer any financial or other incentive that conflicts with the requirements of OAR 836-053-0030(5). Paying a lower rate of commission for small employer groups of different sizes within the 2-25 group, i.e. 2-10 or 2-15 small employer groups, provides a disincentive for producers to sell those small employer plans. Additionally, paying a lower rate of commission for 2-25 small employer plans than for HIPAA small employer plans provides a disincentive for producers to sell 2-25 small employer plans.

Therefore, if the commission rate is a percentage of premiums, the percentage for 2-25 small employer plans is to be equal to or higher than the percentage as for HIPAA small employer plans. If the commission rate is per employee or enrollee, the amount per employee/enrollee for 2-25 small employer plans is to be equal to or higher than the amount per employee/enrollee for HIPAA small employer plans.

IV. Conclusion

Subject to the above requirement commission rates for health plans offered to Oregon small employer groups, as defined by OAR 836-053-0016, may vary based on group size only when the commission rate for plans issued to 2-25 small employers is equal to or higher than the commission rate for plans issued to HIPAA small employers.

Additionally, commission rates may vary based on group size only if the commission rate for small employer plans is higher than the commission rate for large employer group plans.

This bulletin is dated the 5th day of October 2004, at Salem, Oregon.

(Signed)

Joel Ario, Insurance Administrator