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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 836
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE REGULATION

FILED

10/25/2023 8:26 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amending OAR 836-150-0040 to add ORP payment parameters for plan year 2024.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/22/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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350 Winter St NE
Salem, OR 97301

Filed By:
Jennifer Romadka-Healy
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/16/2023

TIME: 11:30 AM - 12:30 PM

OFFICER: Numi Griffith

HEARING LOCATION

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

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-503-446-4951

CONFERENCE ID: 639298676

SPECIAL INSTRUCTIONS:

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

NEED FOR THE RULE(S)

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's actuarial contractor NovaRest, and aim to match expected claims paid with budgeted state and federal funds. The final payment parameters for 2024

were provided to carriers in April 2023 to inform rate setting considerations for plan year 2024. The current permanent rule only defines payment parameters through plan year 2023.

Based on the information available to the Department of Consumer and Business Services (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 RACIAL EQUITY IN THIS STATE

This amended rule defines payment parameters for the Oregon Reinsurance Program (ORP) for claims incurred during the 2024 benefit year. The new payment parameters are calibrated to maintain the program's existing premium reduction target, effectively maintaining the status quo into 2024. 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 2024 benefit year consistent with information provided to health insurance carriers during Oregon's 2024 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 and small group 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:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

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 and other information available to the department, the department does not believe that any health insurer affected by the rule would meet the definition of a small business under ORS 183.310.

(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 2024, 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 2024, resulting in no change to expected resources necessary to comply with the rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

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

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 836-150-0040

RULE SUMMARY: The current rule defines payment parameters for ORP for claims incurred during plan years 2018-2023. The amended rule will include payment parameters for plan year 2024 (attachment point of \$95,000; reinsurance cap of \$1,000,000; and coinsurance rate of 50%), while deleting the provisions related to plan years 2018 and 2019.

CHANGES TO RULE:

836-150-0040

Reinsurance Parameters

(1) For the benefit year beginning on January 1, 2018 the parameters for the Oregon Reinsurance Program are:¶

(a) An attachment point of \$95,000;¶

(b) A reinsurance cap of \$1,000,000; and¶

(c) A coinsurance rate of 59.2 percent.¶

(2) For the benefit year beginning on January 1, 2019~~20~~ the parameters for the Oregon Reinsurance Program are:¶

(a) An attachment point of \$90,000;¶

(b) A reinsurance cap of \$1,000,000; and¶

(c) A coinsurance rate of fifty percent.¶

(3~~2~~) For the benefit year beginning on January 1, 2020~~1~~ the parameters for the Oregon Reinsurance Program are:¶

(a) An attachment point of \$90~~83~~,000;¶

(b) A reinsurance cap of \$1,000,000; and¶

(c) A coinsurance rate of fifty percent.¶

(4~~3~~) For the benefit year beginning on January 1, 2021~~2~~ the parameters for the Oregon Reinsurance Program are:¶

(a) An attachment point of \$83~~92~~,000;¶

(b) A reinsurance cap of \$1,000,000; and¶

(c) A coinsurance rate of fifty percent.¶

(5~~4~~) For the benefit year beginning on January 1, 2022~~3~~ the parameters for the Oregon Reinsurance Program are:¶

(a) An attachment point of \$92~~5~~,000;¶

(b) A reinsurance cap of \$1,000,000; and¶

(c) A coinsurance rate of fifty percent.¶

(6~~5~~) For the benefit year beginning on January 1, 2023~~4~~ the parameters for the Oregon Reinsurance Program are:¶

(a) An attachment point of \$95,000;¶

(b) A reinsurance cap of \$1,000,000; and¶

(c) A coinsurance rate of fifty percent.

Statutory/Other Authority: ORS 731.244, Or Laws 2017, ch 538, sec 19

Statutes/Other Implemented: Or Laws 2017, ch 538, sec 18-21