



## PERMANENT ADMINISTRATIVE ORDER

### ID 13-2023

CHAPTER 836

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

INSURANCE REGULATION

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AMEND: 836-020-0780

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RULE SUMMARY: Amended to address Coordination of Benefit (COB) issues arising out of individuals being entitled to but not enrolled in Medicare Part B.

CHANGES TO RULE:

836-020-0780

Use of Model COB Contract Provision ¶¶

- (1) Appendix A (Exhibit 1 to this rule) contains a model COB provision for use in contracts. The use of this model COB provision is subject to OAR 836-020-0785(1), (2) and (3).¶¶
- (2) Appendix B (Exhibit 2 to this rule) is a plain language description of the COB process that explains to the covered person how health plans will implement coordination of benefits. It is not intended to replace or change the provisions that are set forth in the contract. Its purpose is to explain the process by which the two or more plans will pay for or provide benefits.¶¶
- (3) The COB provision contained in Appendix A and the plain language explanation in Appendix B do not have to use the specific words and format shown in Appendix A or Appendix B. Changes may be made to fit the language and style of the rest of the contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted.¶¶
- (4) A COB provision may not be used that permits a plan to reduce its benefits on the basis that:¶¶
  - (a) Another plan exists and the covered person did not enroll in that plan;¶¶
  - (b) A person is eligible or could have been covered under another plan, ~~except with respect to~~ including Part B of Medicare; or¶¶
  - (c) A person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.¶¶
- (5) A plan may not contain a provision that its benefits are "always excess" or "always secondary" except in accordance with the rules permitted by OAR 836-020-0770 to 836-020-0806.¶¶
- (6) Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the plan year when the covered person receives emergency services that would have been covered by both plans. Then the

secondary plan shall use OAR 836-020-0790 to determine the amount it should pay for the benefit.¶  
(7) A plan may not use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have, that does not meet the definition of plan in OAR 836-020-0775.¶  
[ED. NOTE: Appendices referenced are available from the agency.]  
Statutory/Other Authority: ORS 731.244, ~~743.552~~ORS 743B.475  
Statutes/Other Implemented: ORS ~~743.552~~B.475