

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services – Insurance Division

836

Agency and Division

Administrative Rules Chapter Number

Rule Caption: Prompt Pay Requirements and Internal and External Review Procedures for Long Term Care Insurance

In the Matter of: Adopting OAR 836-052-0768 and 836-052-0770 and amending OAR 836-052-0508 Relating to Prompt Pay Requirements and Internal and External Review Procedures for Long Term Care Insurance

Statutory Authority: ORS 731.244, 743.655 and Section 2, chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88)

Other Authority: Sections 2 and 5, chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88)

Statutes Implemented: ORS 743.655 and Sections 2, 3, 5 and 8, chapter 499, Oregon Laws 2011 (Enrolled Senate Bill 86)

Need for the Rule: This rulemaking is necessary to implement chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88). Senate Bill 88, which became effective May 19, 2011, directs the Department of Consumer and Business Services to adopt rules requiring prompt payment of claims and establishing internal and external review procedures to appeal a determination about whether the conditions of a benefit trigger have been met.

Documents Relied Upon, and where they are available:

- 1) NAIC Model Regulation #641 Long-Term Care Insurance Model Regulation
- 2) NAIC Model Regulation #640 Long-Term Care Insurance Model Act

These documents are available for public inspection at the Insurance Division, Labor and Industries Building, 350 Winter St. NE, Salem, Oregon 97301-3883, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

Fiscal and Economic Impact: These rules establish an internal and external appeals process for determinations related to benefit triggers and implement prompt pay requirements for long term care insurance. The draft rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations. The insurers will bear the cost of internal and external reviews when requested by an insured. That cost is unknown at this time as it will be determined in part through a public bid process conducted by the Division. The insurers will also be required to comply with prompt pay requirements, but this is not likely to have a fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Department of Consumer and Business Services (DCBS) anticipates the number of long term care external review cases would be approximately 44 per year. Forty-four hours, 1 hour per case, for an Administrative Specialist 1, is anticipated to facilitate the external review process. In addition, 90 hours of an Insurance Examiner would be anticipated to initiate and analyze data collection to evaluate insurer's prompt pay compliance. We also estimate 15 hours for a Public Service Representative 4 to facilitate any data collection. Lastly, 14 hours of assistant attorney general time is anticipated for review of the solicitation and contracts for external review services.

Except for the costs incurred by the Department of Justice for reviewing the solicitation and contracts for external review services, no other agency or unit of local government will be impacted by these rules.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The rule applies to long term care insurers. No long term care insurer is a small business in Oregon. Entities that may be selected to provide external review services may be small businesses in Oregon. The Insurance Division anticipates that up to three contractors would be selected to provide this service.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Only those small businesses selected to provide external review services would incur costs and those costs would be covered by the contract to provide the services.

c. Equipment, supplies, labor and increased administration required for compliance: N/A.

How were small businesses involved in the development of this rule? Comments were solicited from an advisory committee consisting, in part, of parties representing small business interests.

Administrative Rule Advisory Committee consulted? Yes.

(Signed)	Teresa D. Miller, Insurance Administrator	October 14, 2011
Signature	Printed name	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.