

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Department of Consumer and Business Services, Insurance Division
Agency and Division

836
Administrative Rules Chapter Number

In the Matter of: Adoption of rules pertaining to One Percent Health Insurance Premium Assessment.

Rule Caption: Implementation of One Percent Health Insurance Premium Assessment.

Statutory Authority: ORS 731.244

Other Authority:

Stats. Implemented: Sections 4 to 8, Chapter 867, Oregon Laws 2009 (Enrolled House Bill 2116)

Need for the Temporary Rule(s):

House Bill 2116 was enacted by the Legislative Assembly in June 2009 and takes effect September 28, 2009. The bill establishes a one percent assessment on health insurers based on the gross amount of premiums earned by the insurer during each calendar quarter. The bill includes an option for the insurers to include the amount of the assessment in their premium rates. For existing approved rates, insurers may include an additional one percent beginning October 1, 2009, without submitting their premium rate to the Insurance Division for review and approval. If an insurer opts to include the additional one percent, the insurer must include a notice with all consumer billings explaining the increase. The notice must comply with the form of notice prescribed by the Division.

These rules are necessary to fully implement the provisions of chapter 867, Oregon Laws 2009, including clarification of certain terms, information about reporting requirements relating to the assessment and requirements for an insurer that chooses to add the one percent assessment to an existing approved rate.

Because the bill takes effect September 28, 2009 and the assessment applies to the calendar quarter beginning October 1, 2009, it is necessary for the Division to adopt these temporary rules to clarify and provide guidance before the insurers must begin implementing the assessment. The Division anticipates adopting permanent rules to replace these temporary rules.

Documents Relied Upon, and where they are available:

- 1) Chapter 867, Oregon Laws 2009 (Enrolled House Bill 2116)
- 2) Insurance Division Bulletin INS 2009-9

Justification of Temporary Rule(s):

This temporary rulemaking is justified for the following reasons:

1. Specific consequences that would result from a failure to immediately adopt the rule and why these consequences would constitute a serious prejudice:

Failure to immediately adopt this rule would impair insurers' ability to comply with the requirements of chapter 867, Oregon Laws 2009 (Enrolled House Bill 2116).
2. Who would suffer these consequences (the general public or specific individuals or groups):

The customers of insurers may suffer harm if the correct amount of assessment is not collected. Small employers may be required to recalculate premiums for their employees' health insurance over and over. Insurers may implement the assessment incorrectly resulting in additional work for them or their customers.

3. Why or how failure to adopt the temporary rules would cause these consequences:

An insurer could overcharge its customers for the assessment or fail to give the notice in customers' billings. This would result in the need to refund any excess charge, or a misunderstanding of the purpose of the rate increase.

4. How the temporary rulemaking will mitigate these consequences:

An insurer will be required to impose the assessment and provide notice in accordance with these rules, which should result in accurate assessments. All customers will receive a standardized notice to aid in understanding of the assessment.

(Signed)
Authorized Signer

Teresa Miller, Insurance Administrator
Printed Name

September 30, 2009
Date