

STATE CONTINUATION OF HEALTH INSURANCE

836-053-0850

Purpose; Authority; Applicability; and Enforcement

(1) OAR 836-053-0850 to 836-053-0885 are permanent rules that repeal and replace temporary rules OAR 836-053-0850T to 836-053-0885T and are adopted under the authority of ORS 731.244 and chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433) for the purpose of implementing continuation of benefits provisions in accordance with chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433) and for the purpose of maximizing the benefit certificate holders in Oregon may receive under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(2) OAR 836-053-0850 to 836-053-0885 apply to insurers issuing continuation coverage as required under ORS 743.610.

Stat. Auth.: ORS 731.244, chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)

Stats. Implemented: ORS 743.610, chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)

836-053-0855

Definitions

As used in OAR 836-053-0850 to 836-053-0885:

(1) "Certificate holder" means any covered employee or qualified beneficiary who:

(a) Is eligible for continuation coverage;

(b) Elects continuation coverage;

(c) Is subject to a qualifying event; and

(d) Is considered an assistance eligible individual under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(2) "Covered employee" means a certificate holder who has been insured continuously under a policy or similar predecessor policy during the three-month period ending on the date of the termination of employment or membership.

(3)(a) "Qualified beneficiary" means a covered employee under a group health plan or any other individual who, on the day before the qualifying event for that employee, is a beneficiary under that plan as the spouse of the covered employee or as the dependent child of the employee, including a child born or placed for adoption after the qualifying event or during the period the covered employee is eligible for continuation coverage.

(b) An individual is not a qualified beneficiary if:

(A) The individual is eligible for Federal Medicare coverage.

(B) The individual is eligible for any other group health plan. This limitation does not apply to coverage consisting only of:

(i) Dental, vision, counseling, or referral services;

(ii) Coverage under a health flexible spending arrangement as defined in section 106(c)(2) of the Internal Revenue Code of 1986; or

(iii) Treatment that is furnished in an on-site medical facility maintained by an employer.

(C) An individual is not a qualified beneficiary only for purposes of receiving a premium subsidy if the individual is a domestic partner.

(4) "Qualifying event" means involuntary termination of employment and loss of group health insurance coverage during the period beginning September 1, 2008 and ending December 31, 2009.

Stat. Auth.: ORS 731.244 chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)
Stats. Implemented: ORS 743.610, chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)

836-053-0860

Notification

(1) An insurer subject to the requirements of ORS 743.610 and chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433) shall provide a notice explaining continuation of benefits directly to individuals losing group coverage, for any reason other than group replacement of coverage, within 10 days following the date of any administrative action taken by an insurer to initiate or document the loss of coverage.

(2) The insurer providing the notice required under section (1) of this rule shall include in the notice at least the following information:

- (a) Contact information for the employee to reach the insurer;**
- (b) Forms and instructions about how to complete and return the forms and to whom (i.e., going through employer or direct to insurer);**
- (c) A clear statement explaining availability of premium subsidy;**
- (d) Premium information or directions for determining the premium amount for each qualified beneficiary and instructions for submitting the premium;**
- (e) A clear statement about who is eligible to continue coverage;**
- (f) Information about how to enroll in different coverage if allowed by the employer;**
- (g) Instructions about the employee's responsibility to notify the insurer if the employee becomes ineligible for the subsidy; and**
- (h) Instructions about how to appeal denials for treatment as a certificate holder**

Stat. Auth.: ORS 731.244, chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)
Stats. Implemented: ORS 743.610, chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)

836-053-0865

Provisions Relating to Premium Subsidy for State Continuation Coverage

(1) In order to maximize the benefit to Oregonians under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), certain qualified beneficiaries are eligible for:

- (a) Premium subsidy for continuation of coverage;**
- (b) An opportunity to elect continuation of coverage that is in addition to the period allowed under ORS 743.610(5);**
- (c) Continuation of coverage for a period of time that exceeds the period allowed under ORS 743.610(7) (a); and**
- (d) An option to enroll in different coverage if the employer permits certificate holders to elect enrollment in different coverage.**

(2) After receiving the attestation from an employer stating that the employee meets the requirements of a certificate holder and the date of the qualifying event, an insurer is required to accept timely payment of the certificate holder's 35 percent share of the total premium as full payment of the premium and process claims as though 100 percent of the total premium due has been paid.

(3) (a) The following certificate holders qualify for a second opportunity to elect continuation of coverage if the group health plan remains in effect:

(A) Certificate holders who did not elect to continue coverage during the period allowed under ORS 743.610(5) prior to April 28, 2009; and

(B) Certificate holders who elected continuation coverage during the period allowed under ORS 743.610(5) but whose continuation coverage ended for any reason prior to April 28, 2009;

(b) Within 31 calendar days after the insurer provides the notice required under OAR 836-053-0860(1), certificate holders who received the notice under paragraph (a) of this subsection must return the following items according to instructions provided by the insurer:

(A) Completed forms for electing state continuation coverage and requesting treatment as a certificate holder;

(B) The individual's tax identification number;

(C) Form for Switching State Continuation Coverage Benefit Options, if offered;

and

(D) The initial premium if required.

(c) Certificate holders who became eligible on or after September 1, 2008 and prior to April 28, 2009 are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for the longer of:

(A) Nine months of continuation coverage beginning with the coverage month first following the qualifying event; or

(B) Until November 30, 2009.

(d) The effective date for continuation coverage issued in response to a second election of coverage will be the later of the first day of the coverage month on or after February 17, 2009 or the first day of the coverage month first following the qualifying event.

(4) (a) Within 31 calendar days after the insurer provides the notice required under OAR 836-053-0860(1), certificate holders who become eligible on or after April 28, 2009 must return the following items according to any instructions provided by the insurer:

(A) Forms for electing state continuation coverage and requesting treatment as a certificate holder;

(B) The individual's tax identification number;

(C) The form for switching state continuation coverage benefit options, if offered;

and

(D) The initial premium, if required.

(b) A certificate holder who becomes eligible on or after April 28, 2009 is eligible to continue coverage for a period of nine months beginning with the coverage month first following the qualifying event. However, the premium subsidy available to the individual shall not exceed any period of limitation specified in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5)

(5) A certificate holder may elect to enroll in different coverage as described in subsection (1) (d) of this rule if:

(a) The employer permits certificate holders to enroll in different coverage;

(b) The premium for the different coverage does not exceed the premium for coverage in which the certificate holder was enrolled at the time of the qualifying event;

(c) The different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time the individual makes the election; and

(d) The different coverage is not:

(A) Coverage that provides only dental, vision, counseling or referral services, or a combination of such services;

(B) A flexible spending arrangement as defined in section 106(c) (2) of the Internal Revenue Code of 1986; or

(C) Coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care or similar care, or a combination of such care.

(6) The period of time beginning on the date of the qualifying event and ending with the effective date of continuation coverage shall be disregarded for purposes of determining periods of creditable coverage under ORS 743.754, 743.737, and 743.766.

(7) A premium subsidy is not available to a certificate holder who becomes eligible for coverage under any other group health plan or Medicare. An individual paying a reduced premium for continuation coverage as described in this section must promptly notify the insurer if they become eligible for other group health plan coverage or Medicare.

(8) Certificate holders who elected continuation on or after September 1, 2008 and prior to April 28, 2009, are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for the longer of:

(a) A period of nine months beginning with the coverage month first following the qualifying event; or

(b) Until November 30, 2009.

Stat. Auth.: ORS 731.244; chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)

836-053-0850 (REPEAL of Temporary Rule)

Purpose; Authority; Applicability; and Enforcement

[(1) OAR 836-053-0850 to 836-053-0885 are adopted under the authority of ORS 731.244 and chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) for the purpose of implementing continuation of benefits provisions in accordance with chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) and for the purpose of maximizing the benefit Oregonians may receive under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

[(2) OAR 836-053-0850 to 836-053-0885 apply to insurers issuing continuation coverage as required under ORS 743.610.]

Stat. Auth.: ORS 731.244, chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)

Stats. Implemented: ORS 743.610, chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)

836-053-0855 (REPEAL of Temporary Rule)

Definitions

[As used in OAR 836-053-0850 to 836-053-0885:

[(1) "Assistance eligible individual" means any covered employee or qualified beneficiary who:

[(a) Is eligible for continuation coverage; [

(b) Elects continuation coverage;

(c) Is subject to a qualifying event; and

(d) Is considered an Assistance eligible individual under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

[(2) "Covered employee" means a certificate holder who has been insured continuously under a policy or similar predecessor policy during the three-month period ending on the date of the termination of employment or membership.

[(3) (a) “Qualified beneficiary” means a covered employee under a group health plan or any other individual who, on the day before the qualifying event for that employee, is a beneficiary under that plan as the spouse of the covered employee or as the dependent child of the employee, including a child born or placed for adoption after the qualifying event or during the period the covered employee is eligible for continuation coverage.

[(b) An individual is not a qualified beneficiary if:

[(A) The individual is eligible for Federal Medicare coverage.

[(B) The individual is eligible for any other group health plan. This limitation does not apply to coverage consisting only of:

[(i) Dental, vision, counseling, or referral services;

[(ii) Coverage under a health flexible spending arrangement as defined in section 106(c)(2) of the Internal Revenue Code of 1986; or

[(iii) Treatment that is furnished in an on-site medical facility maintained by the employer.

[(C) An individual is not a qualified beneficiary only for purposes of receiving a premium subsidy if the individual is a domestic partner.

[(4) “Qualifying event” means involuntary termination of employment and loss of group health insurance coverage during the period beginning September 1, 2008 and ending December 31, 2009.]

Stat. Auth.: ORS 731.244 chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)

Stats. Implemented: ORS 743.610, chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)

836-053-0860 (REPEAL of Temporary Rule)

Notification

[(1) An insurer subject to the requirements of ORS 743.610 and chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) shall provide a notice explaining continuation of benefits directly to individuals losing group coverage, for any reason other than group replacement of coverage, within 10 days following the date of any administrative action taken by an insurer to initiate or document the loss of coverage.

[(2) The insurer providing the notice required under section (1) of this rule shall include in the notice at least the following information:

[(a) Contact information for the employee to reach the insurer;

[(b) Forms and instructions about how to complete and return the forms and to whom (i.e., going through employer or direct to insurer);

[(c) A clear statement explaining availability of premium subsidy;

[(d) Premium information or directions for determining the premium amount for each qualified beneficiary and instructions for submitting the premium;

[(e) A clear statement about who is eligible to continue coverage;

[(f) Information about how to enroll in different coverage if allowed by the employer;

[(g) Instructions about the employee’s responsibility to notify the insurer if the employee becomes ineligible for the subsidy; and

[(h) Instructions about how to appeal denials for treatment as an assistance eligible individual.

[(3) No later than 30 days after the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433), an insurer subject to the requirements of ORS 743.610 and chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) shall provide a notice explaining continuation of coverage and the right to an additional opportunity to request continuation coverage directly to qualified beneficiaries who experienced a qualifying event between September 1, 2008 and the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433). This notice must be sent by the insurer to the qualified beneficiary.

- [(4) The insurer providing the notice required under section (3) of this rule shall include in the notice at least the following information:*
- [(a) Contact information for the employee to reach the insurer;*
 - [(b) Forms and instructions about how to complete and return them and to whom (i.e., going through employer or direct to insurer);*
 - [(c) Instruction about the second chance election opportunity, including a clear statement about who is eligible to continue coverage;*
 - [(d) A clear statement explaining availability of premium subsidy;*
 - [(e) Premium information or directions for determining the premium amount for each qualified beneficiary and instructions for submitting premium;*
 - [(f) Information about how to enroll in different coverage if allowed by the employer;*
 - [(g) When coverage becomes effective if the second election is made;*
 - [(h) Instructions about how to appeal denials for treatment as an assistance eligible individual; and*
 - [(i) Instructions about notification if the employee becomes ineligible for the subsidy.]*

Stat. Auth.: ORS 731.244, chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)
Stats. Implemented: ORS 743.610, chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)

836-053-0865 (REPEAL of Temporary Rule)
Provisions Relating to Premium Subsidy for State Continuation Coverage

- [(1) In order to maximize the benefit to Oregonians under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), certain qualified beneficiaries are eligible for:*
- [(a) Premium subsidy for continuation of coverage;*
 - [(b) An opportunity to elect continuation of coverage that is in addition to the period allowed under ORS 743.610(5);*
 - [(c) Continuation of coverage for a period of time that exceeds the period allowed under ORS 743.610(7) (a); and*
 - [(d) An option to enroll in different coverage if the employer permits assistance eligible employees to elect enrollment in different coverage.*
- [(2) After receiving the attestation from an employer stating that the employee meets the requirements of an assistance eligible individual and the date of the qualifying event, an insurer is required to accept timely payment of the assistance eligible individual's 35 percent share of the total premium as full payment of the premium and process claims as though 100 percent of the total premium due has been paid.*
- [(3) (a) The following assistance eligible individuals qualify for a second opportunity to elect continuation of coverage if the group health plan remains in effect:*
- [(A) Assistance eligible individuals who did not elect to continue coverage during the period allowed under ORS 743.610(5) prior to the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433); and*
 - [(B) Assistance eligible individuals who elected continuation coverage during the period allowed under ORS 743.610(5) but whose continuation coverage ended for any reason prior to the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433);*
- [(b) Within 31 calendar days following receipt of the required notice from the insurer, assistance eligible individuals who received the notice under paragraph (a) of this subsection must return the following items according to instructions provided by the insurer:*
- [(A) Completed forms for electing state continuation coverage and requesting treatment as an assistance eligible individual;*
 - [(B) The individual's tax identification number;*

*[(C) Form for Switching State Continuation Coverage Benefit Options, if offered; and
[(D) The initial premium if required.
[(c) Assistance eligible individuals who became eligible between September 1, 2008 and the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for the longer of:
[(A) Nine months of continuation coverage beginning with the coverage month first following the qualifying event; or
[(B) Until November 30, 2009.
[(d) The effective date for continuation coverage issued in response to a second election of coverage will be the later of the first day of the coverage month on or after February 17, 2009 or the first day of the coverage month first following the qualifying event.
[(4) (a) Within 31 calendar days following receipt of the required notice from the insurer, assistance eligible individuals who become eligible on or after the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) must return the following items according to any instructions provided by the insurer:
[(A) Forms for electing state continuation coverage and requesting treatment as an assistance eligible individual;
[(B) The individual's tax identification number;
[(C) The form for switching state continuation coverage benefit options, if offered; and
[(D) The initial premium, if required.
[(b) An assistance eligible individual who became eligible on or after the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) is eligible to continue coverage for a period of nine months beginning with the coverage month first following the qualifying event.
[(5) An assistance eligible individual may elect to enroll in different coverage as described in subsection (1) (d) of this rule if:
[(a) The employer permits assistance eligible individuals to enroll in different coverage;
[(b) The premium for the different coverage does not exceed the premium for coverage in which the individual was enrolled at the time of the qualifying event;
[(c) The different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time the individual makes the election; and
[(d) The different coverage is not:
[(A) Coverage that provides only dental, vision, counseling or referral services, or a combination of such services;
[(B) A flexible spending arrangement as defined in section 106(c) (2) of the Internal Revenue Code of 1986; or
[(C) Coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care or similar care, or a combination of such care.
[(6) The period of time beginning on the date of the qualifying event and ending with the effective date of continuation coverage shall be disregarded for purposes of determining periods of creditable coverage under ORS 743.754, 743.737, and 743.766.
[(7) A premium subsidy is not available to an assistance eligible individual who becomes eligible for coverage under any other group health plan or Medicare. An individual paying a reduced premium for continuation coverage as described in this section must promptly notify the insurer if they become eligible for other group health plan coverage or Medicare.
[(8) Assistance eligible individuals who elect continuation on or after September 1, 2008, but before the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for the longer of:*

[(a) A period of nine months beginning with the coverage month first following the qualifying event; or

[(b) Until November 30, 2009.]

Stat. Auth.: ORS 731.244; chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)

Stats. Implemented: ORS 743.610; chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433)

Stats. Implemented: ORS 743.610; chapter 73, Oregon Laws 2009 (Enrolled House Bill 2433)