

Chapter 440 Department of Consumer and Business Services
OREGON ADMINISTRATIVE RULES 1997 COMPILATION

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DIVISION 1

PROCEDURAL RULES

440-001-0000

Notice of Rulemaking

(1) Prior to rulemaking to which this rule applies, the Director shall give notice as provided in this rule. This rule applies to rulemaking that carries out any of the following rulemaking authority of the Director:

- (a) Rulemaking authority under ORS 705.135;
- (b) Rulemaking authority of the Director other than as provided under ORS 705.135, with respect to the Department as a whole;
- (c) Rulemaking authority with respect to duties and functions assigned to the Director or the Department by law when the duties and functions are not carried out through an administrative division or staff office created under ORS 705.115.

(2) The rulemaking authority to which this rule applies includes, by way of example only, authority under ORS 646.859 which provides for approval by the Department of signs to be posted by auto rental companies, and authority under ORS 293.445, which governs the refund of moneys by agencies.

(3) The Director shall give notice of an intended action to which this rule applies:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days before the effective date of the intended action;

(b) By mailing copies of the notice to persons on the mailing list established by the Director under ORS 183.335(7);

(c) By mailing or delivering copies of the notice to the Associated Press, the Daily Journal of Commerce and the United Press International;

(d) By mailing copies of the notice to persons referred to in the following rules who the Director determines may have an interest in the subject matter of the proposal:

- (A) OAR 436-001-0000, relating to workers' compensation;
- (B) OAR 441-013-0030, relating to securities;
- (C) OAR 805-003-0011, relating to financial institutions;
- (D) OAR 805-070-0010, relating to savings associations, credit unions and consumer finance companies;
- (E) OAR 814-100-0000, relating to collection agencies;
- (F) OAR 814-105-0000, relating to debt consolidating agencies;

(G) OAR 836-005-0105, relating to insurance.

Stat. Auth.: ORS 183.341 & 705.135

Stats. Implemented: ORS 183.341(4)

Hist.: IF 7-1989(Temp), f. & cert. ef. 9-1-89; IF 1-1990, f. & cert. ef. 4-19-90

440-001-0005

Model Rules of Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act as published in the **Oregon Attorney General's Administrative Law Manual** bearing the effective date of November 4, 1993, except for OAR 137-001-0007(2) and (3), are adopted as the rules of procedure for the Department of Consumer and Business Services to enable the Director to take administrative actions needed to carry out the duties and functions of the Director with respect to the Department as a whole or with

respect to duties and functions assigned to the Director by law when the duties and functions are not carried out through an administrative division or staff office of the Department created under ORS 705.115. Such duties and functions may include, by way of example only, rulemaking authority under ORS 646.859, which provides for approval by the Department of signs to be posted by auto rental companies, and under ORS 293.445, which governs the refund of moneys by agencies.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedures is available from the Office of the Attorney General or the Department of Consumer and Business Services.]

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Department of Consumer and Business Services.]

Stat. Auth.: ORS 183.341 & 705.135

Stats. Implemented: ORS 183.341(1)

Hist.: IF 6-1989, f. & cert. ef. 9-1-89; IF 1-1992, f. & cert. ef. 2-13-92; DCBS 1-1994, f. & cert. ef. 3-23-94

DIVISION 5

ACCESS OF PUBLIC RECORDS, FEES FOR RECORD SEARCH AND COPIES OF PUBLIC RECORDS

440-005-0001

Authority for Rules

The director has adopted OAR 440-05-001 to 440-05-030 by the director's authority under ORS 192.430, 192.440, 656.726, 697.732, 731.244, 731.282, 731.284 and 731.804.

Stat. Auth.: ORS 192.430, 192.440, 656.726, 697.732, 731.244, 731.282, 731.284 & 731.804

Stats. Implemented: ORS 192.410 to 192.505

Hist.: IF 1-1989, f. 6-7-89, cert. ef. 6-15-89; IF 2-1990, f. & cert. ef. 6-4-90

440-005-0005

Applicability of Rule

OAR 440-005-0001 to 440-005-0030 apply to all public records of the Department of Consumer and Business Services (department), and govern the application of ORS 192.410 to 192.505 to these records.

Stat. Auth.: ORS 192.430, 192.440, 656.726, 697.732, 731.244, 731.282, 731.284 & 731.804

Stats. Implemented: ORS 192.410 to 192.505

Hist.: IF 1-1989, f. 6-7-89, cert. ef. 6-15-89; DCBS 2-1994, f. 7-8-94, cert. ef. 8-1-94

440-005-0015

Access to Records

(1) The director, in carrying out responsibilities under ORS 192.430 as custodian of public records, shall make restrictions and take precautions necessary to protect the integrity of the records and prevent interference with the regular discharge of the department's duties.

(2) Public records of the department may be inspected or examined during the normal working days and hours of the offices of the department at which the records are kept. The inspection or examination shall take place at the main office, a field office, or any other reasonable location designated by the director.

(3) Access to and disclosure of the public records are subject to ORS 192.410 to 192.505, 654.120, 697.732, 706.720, 722.419, 731.264, 731.312, 734.650, 734.830, 744.245 and any other references establishing an exemption to disclosure of public records..

Stat. Auth.: ORS 192.430, 192.440, 656.726, 697.732, 731.244, 731.282, 731.284 & 731.804

Stats. Implemented: ORS 192.430, 192.440, 192.502, 654.120, 697.732, 706.720, 722.419, 731.264 & 731.312

Hist.: IF 1-1989, f. 6-7-89, cert. ef. 6-15-89; IF 2-1990, f. & cert. ef. 6-4-90; DCBS 2-1994, f. 7-8-94, cert. ef. 8-1-94

440-005-0020

Requests to Inspect or Obtain Copies of Public Records

A request to inspect or obtain copies of a public record or information from public records shall be made in writing or in person, and shall include:

(1) The name, address and telephone number of the requester, except as considered unnecessary by the director;

(2) An identification of the needed public record, or of the type and format of needed public record information, if known to the requester; and

(3) The number of copies requested of the record, if copies are requested.

Stat. Auth.: ORS Ch. 192, 656, 697 & 731

Stats. Implemented: ORS 192.430

Hist.: IF 1-1989, f. 6-7-89, cert. ef. 6-15-89

440-005-0025

Payment for Inspection and Copies of Public Records

(1) A person who is receiving a copy of a public record or information from a public record shall pay for the department's actual cost for:

(a) Staff time necessary to locate and handle the records, to delete material exempt from disclosure and to supervise the inspection by the requester;

(b) Producing the copy or the information; and

(c) Other supplies or services necessary to furnish the copy or information.

(2) The director may reduce or waive payment of the fee for access of a public record if the director determines that the reduction or waiver will aid the effective administration of department operations.

(3) The director shall not require payment of fees for the first copy of publications, statutes, administrative rules or public records from public libraries, public educational institutions, or from a federal, state, county or city agency participating in a cooperative program with the department or any company or individual who is the subject of documents such as workers' compensation claim files.

(4) The requester shall pay all fees for access of a public record in advance unless later payment is approved by the director.

Stat. Auth.: ORS 192.430, 192.440, 656.726, 697.732, 731.244, 731.282, 731.284 & 731.804

Stats. Implemented: ORS 192.440(3) & (4)

Hist.: IF 1-1989, f. 6-7-89, cert. ef. 6-15-89; IF 2-1990, f. & cert. ef. 6-4-90; DCBS 2-1994, f. 7-8-94, cert. ef. 8-1-94

440-005-0030

Fees and Miscellaneous Charges

The director establishes fees and miscellaneous charges in agency policy, reviewed annually to insure all charges reflect no more than the actual cost of producing and processing.

Stat. Auth.: ORS 192.430, 192.440, 656.726, 697.732, 731.244, 731.282, 731.284 & 731.804

Stats. Implemented: ORS 192.440(3), (4), 731.282, 731.284 & 731.804

Hist.: IF 1-1989, f. 6-7-89, cert. ef. 6-15-89; IF 2-1990, f. & cert. ef. 6-4-90; DCBS 2-1994, f. 7-8-94, cert. ef. 8-1-94

DIVISION 10

CONSUMER PROTECTION

440-010-0001

Notice, Collision Damage Waivers

For purposes of Section 2, Chapter 458, Oregon Laws 1989, which provides that an auto rental agency offering collision damage waivers shall post a sign approved by the Department, the Department shall consider a sign approved if the sign meets the following requirements:

(1) The sign must state the following in bold type that is at least 1.25 inches high:

**OUR CONTRACTS OFFER OPTIONAL COLLISION
DAMAGE WAIVERS AT AN ADDITIONAL COST.**

(2) The sign must be posted in the place of business of the auto rental agency in a location that is conspicuous to the public.

Stat. Auth.: ORS Ch.705

Stats. Implemented: ORS 649.859

Hist.: IF 8-1989, f. 11-6-89, cert. ef. 12-11-89

DIVISION 15

CONFLICT OF INTEREST

440-015-0001

Authority for Rules

These rules are promulgated pursuant to the director's specific rulemaking authority under ORS 705.135.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0010

Purpose

(1) The purpose of these rules is to identify the circumstances under which employees or any category of employees of the department may or may not become indebted to, employed by, or hold any interest in an entity subject to the regulation of the department.

(2) These rules also provide procedures for when and how employees must report their indebtedness, employment or interests for the purposes of preventing or resolving possible conflicts of interest.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135 & 731.228

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0020

Applicability of Rules

(1) These rules carry out the provisions of ORS 705.135(3).

(2) The provisions of OAR Chapter 440, Division 15, apply to all public officials and employees of the department with the exclusion of the public officials and employees of the Workers' Compensation Board.

(3) These rules are in addition to, and not in lieu of, the provisions of ORS Chapter 244, 731.228 and any other applicable statutes and rules that specifically govern holdings, indebtedness and financial interests of public officials.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0030

Definitions

For the purpose of these rules unless the context requires otherwise:

(1) "Business with Which an Employee is Associated" means any business in which the employee or a member of the employee's household, is a director, officer, owner, or employee; or any corporation in which the employee or a member of the employee's household owns or has owned stock at any point in the preceding calendar year.

(2) "Department" means the Department of Consumer and Business Services.

(3) "Designated Public Official" or "Designated Employee" means a public official designated by the director, or by the administrator of a division to which the public official or employee is assigned, who by their assigned responsibilities could influence the regulation of an entity regulated by the department.

(4) "Director" means the director of the department.

(5) "Division" means those organizations as designated by the director which make up the structures of the department and include, but are not limited to, the Business Administration Division, Division of Finance and Corporate Securities, Information Management Division, Insurance Division, Oregon Occupational

Safety and Health Division, and the Workers' Compensation Division.

(6) "Member of Household" means any relative who resides with the public official. For the purposes of this section, "Relative" means the spouse of the public official and any children of either, the brother, sister, parent, father-in-law or mother-in-law of the public official or of the public official's spouse.

(7) "Public Official" or "Employee" means any employee, board member, agent, or other person serving the department, whether paid or unpaid.

(8) "Potential Conflict of Interest" means any transaction where an employee, acting in their official capacity, takes any action or makes any decision or recommendation, the effect of which would be to the employee's pecuniary benefit or detriment, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the employee of the office or position;

(b) Any action in the employee's official capacity which could affect to the same degree a class consisting of an industry, occupation, or other group including one of which or in which the employee, or a member of the employee's household or business with which the employee is associated, is a member, or is engaged.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0040

Potential Conflicts of Interest

The following are examples, but not an all inclusive list, of potential conflicts of interest requiring action by an employee pursuant to OAR 440-015-0060:

(1) Indebtedness to any person regulated or licensed by the department in which the employee by virtue of assigned duties could affect the regulation of the person or entity.

(2) Employment by or having a financial, business, or other economic interest in any person regulated or licensed by the department in which the employees by virtue of assigned duties could affect the regulation of the person or entity.

(3) Receipt of a gift or honoraria from any person for services or activities performed in their official capacity as an employee, to the extent such gifts or honoraria exceed the value permitted under the department's ethics policy.

(4) Taking official action by virtue of assigned duties toward any person who is a member of the employee's household, related to the employee or any person to whom the employee is personally acquainted or has information or knowledge thereof that could be perceived as a conflict of interest.

(5) For the purpose of this rule, "a person to whom the employee is personally acquainted" includes, but is not limited to, a close friend, a cohabitant, an ex-spouse, etc.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0050

Conduct of Department Employees

Except as provided for in ORS 731.228 and any other statutes or rules restricting the indebtedness and interests of employees, department employees may be indebted to or hold an economic interest in an entity regulated by the department as long as they do not use their position in any way to obtain financial gain for themselves, other than for salary or reimbursement of expenses, or for any member of the household, or any business with which they or a member of the household are associated.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0060

Resolving Potential Conflicts of Interest

(1) Upon becoming aware of a potential conflict of interest, an employee must report the potential conflict in the following manner:

(a) Not later than the end of the employee's next full work shift, the employee shall report the potential conflict of interest to their immediate supervisor in the form and format prescribed by the director;

(b) The supervisor of the employee must submit the completed conflict of interest form to the diversion administrator or designee for resolution.

(2) The administrator or designee shall review the employee's potential conflict of interest to verify whether a potential conflict of interest exists. If the administrator or designee finds that a potential conflict of interest does exist, the administrator or designee shall take necessary measures to ensure that the conflict is resolved. Such measures may include any or all of the following:

(a) Require the employee to complete a financial disclosure form as prescribed in OAR 440-015-0070 by designating the employee as a "designated employee";

(b) Reassign the employee to different duties to eliminate the potential conflict;

(c) Take any other reasonable actions necessary to resolve the potential conflict.

(3) Not later than the tenth day after disposing of a potential conflict of interest pursuant to section (2) of this rule, the subject employee shall submit a completed disposition report detailing the manner in which the conflict was disposed. The disposition report, in the form and manner as prescribed by the director, shall include but not be limited to:

(a) Description of the actual or potential conflict of interest;

(b) Persons affected by the actual or potential conflict of interest;

(c) Manner in which the potential conflict of interest was disposed;

(d) The dates the action was taken to resolve the potential conflict; and

(e) The signatures of the employee and the diversion administrator or designee.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0070

Reporting of Indebtedness and Interests

(1) All designated employees shall complete a financial disclosure form prescribed by the director which lists the entities to which they and each member of their household are indebted or have interests.

(2) The financial disclosure form shall be completed upon hiring and updated when there are any changes in information from the previous report. Revised reports must be filed within ten working days of the change in information.

(3) Designated employees hired prior to the effective date of these rules, shall complete a financial disclosure form within sixty days of the effective date of these rules.

(4) Annually, at the time of each employee's merit review date, division administrators or their designees shall evaluate whether the employee should be designated as an employee who must complete a financial disclosure form and shall ensure that all designated employees have an up-to-date financial disclosure form on file in the department.

(5) Routine bank accounts, credit cards, personal home/auto insurance coverage, employer provided insurance, investments by the Public Employees' Retirement System and deferred compensation are excluded from reporting requirements. The date or dates on which each indebtedness or interest was incurred must be reported on the form. The dollar amounts of the indebtedness or interests do not need to be reported.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0080

Penalties

(1) In addition to any other penalties prescribed by law, an employee in violation of these rules shall be subject to personnel actions, which may include termination of employment.

(2) Any such action under this rule shall be in accordance with appropriate statutes, rules and policies, and applicable collective bargaining agreements.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

440-015-0090

Review

(1) Any employee who is aggrieved by any decision made pursuant to these rules may have the decision reviewed by the director.

(2) To obtain review by the director, the aggrieved employee must submit a request for review to the director within 30 days of the decision concerning the incident or the action giving rise to the grievance. The request for review, in the form and format prescribed by the director, shall include:

(a) Description of the decision being aggrieved;

(b) Reasons the decision is considered inappropriate;

(c) Corrective action desired; and

(d) Any supporting documentation the employee wishes the director to consider.

(3) The director shall review the matter and issue a response within 30 days of receipt of the request for review.

(4) This review process is in addition to any other review process authorized by any applicable statute, rule or collective bargaining agreement.

Stat. Auth.: ORS 705.135

Stats. Implemented: ORS 705.135

Hist.: IF 1-1993, f. & cert. ef. 7-14-93

DIVISION 25

24-HOUR COVERAGE PILOT PROGRAM

440-025-0000

Authority

The director has adopted OAR 440-025-0000 to 440-025-0260 by the director's authority under ORS 705.135(2) and Section 1(4), Chapter 758, Oregon Laws 1993.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & §1, 2, 3 & 4, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0010

Purpose

These rules establish standards governing the application process and participation in the 24-Hour Coverage Pilot Program, authorized by Chapter 758, Oregon Laws 1993.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & §1 (1), (2) & (4), 2, 3 & 4, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0020

Applicability

These rules apply to all employers, insurers and health care providers that apply to combine workers' compensation insurance and health care coverage under the 24-Hour Coverage Pilot Program.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & §1 (1), (2) & (4), 2, 3 & 4, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0030

Definitions

(1) "24-Hour Coverage" means a combination of group health coverage plus the medical portion of workers' compensation coverage, as authorized by Chapter 758, Oregon Laws 1993 and governed by the rules herein.

(2) "24-Hour Medical Insurance Policy" means an insurance policy providing integrated plan coverage.

(3) "Claim" means a request for workers' compensation, as defined in ORS 656.005.

(4) "Compensable Injury" means an injury or disease as defined in ORS 656.005 and 656.802.

(5) "Coordinated Plan" means a pilot plan in which compensable medical services for compensable injuries are covered by a workers' compensation plan and medical services for non-compensable injuries are covered by a group health plan and all medical services are coordinated by the two plans to achieve 24-hour coverage.

(6) "Director" means the Director of the Department of Consumer and Business Services, or the director's designee.

(7) "Employer", as defined in ORS 656.005, is further defined to include an entity that participates in a pilot plan.

(8) "Group Health Plan" means:

(a) A group policy of health insurance, or group contract with a health care service contractor, in compliance with the **Insurance Code**;

(b) The services covered by a self-insured employee welfare benefit plan in compliance with the federal Employee Retirement Income Security Act (ERISA);

(c) The services covered by a health and welfare plan in compliance with federal Taft-Hartley requirements; or

(d) The services covered by a health and welfare plan of a multiple employer welfare arrangement (MEWA) in compliance with the **Insurance Code**.

(9) "Integrated Plan" means a pilot plan in which medical services for both compensable and non-compensable injuries are covered by:

(a) A single insurance policy or plan;

(b) A single self-funded health plan or program; or

(c) An integrated arrangement of coverage from a single insurance carrier or a single health care service contractor.

(10) "Non-Compensable Injury" means an injury or disease that is not compensable under ORS Chapter 656 and that is subject to coverage under the group health portion of a pilot plan.

(11) "Pilot Plan" means a plan that provides 24-hour coverage and is governed by OAR Chapter 440, Division 25.

(12) "Pilot Program" means the program of medical coverage which is authorized by Chapter 758, Oregon Laws 1993 and is governed by OAR Chapter 440, Division 25.

(13) "Subject Worker" means a worker who is subject to ORS Chapter 656 as provided by ORS 656.027.

(14) "Workers' Compensation Plan" means an insured or self-insured plan that is in compliance with the Workers' Compensation Law.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Department of Consumer and Business Services.]

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1 (1), (2) & (4) & Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0040

Exclusive Remedy

(1) The workers' compensation portion of a pilot plan is subject to the exclusive remedy provisions of ORS 656.018.

(2) Neither Chapter 758, Oregon Laws 1993 nor OAR Chapter 440, Division 25 limits, reduces or expands the exclusive remedy provisions of ORS 656.018.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1 (1), (2) & (4), 2, 3 & 4, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0050

Pilot Plans in General

(1) A pilot plan shall deliver coverage through a coordinated plan or an integrated plan. Each pilot plan shall be designed and operated to eliminate, or minimize, differences in the delivery and administration of medical services and in the payment of medical fees for compensable and non-compensable injuries. If a proposed method of payment of medical fees does not comply with the provisions of ORS 656.248, the method may not be implemented until an exemption is requested and approved in accordance with OAR 440-025-0160.

(2) A pilot plan may provide coverage to workers of one employer, or to workers of two or more employers, as set out in an authorized pilot plan application. A pilot plan may cover all or a portion of the subject workers of a participating employer, as set out in an authorized pilot plan application. If only a portion of the workforce is covered by a pilot plan, medical coverage for the remaining portion of the workforce shall be governed by the provisions of the employer's non-pilot plans.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1 (1), & (4), 2, 3 & 4, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0060

Pilot Plan Sponsors

(1) The sponsors of a pilot plan shall be responsible for the funding and operation of the plan.

(2) Each pilot plan shall have at least one sponsor from each of the following categories:

(a) Employer or labor union, if it has a significant role in operating the pilot plan, except that identification of sponsors in this category may be deferred until marketing efforts generate specific participants;

(b) Workers' compensation plan;

(c) Group health plan, except that a separate group health plan sponsor is not required if that coverage is included in an integrated plan which is sponsored by a workers' compensation insurer or self-insurer; and

(d) Any other entity if it has a significant role in operating the pilot plan.

(3) Sponsors may operate a pilot plan only by entering into a pilot plan agreement with the director. The agreement shall incorporate the application described in OAR 440-025-0070, including any revisions to the application that are agreed upon by the director and the plan sponsors.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1 (1), & (4), 2, 3 & 4, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0070

Application Process

(1) The sponsors of a pilot plan shall apply for authorization to operate the plan by submitting an application to the director on a form prescribed by the director. The sponsors shall provide at least the following information:

(a) The names of all plan sponsors and a description of their roles in funding, insuring and operating the pilot plan;

(b) A full description of how the pilot plan will operate, including participating and non-participating workers, participating and non-participating worksites, plan benefits, coverage limitations, premiums, provider networks, managed care provisions and administrative procedures of the plan;

(c) A listing of participating providers by service category;

(d) A draft of all materials describing the pilot plan that are intended for distribution to plan members;

(e) A description of how the pilot plan is expected to benefit each of the following stakeholders; workers, employers, medical providers and insurers; and

(f) A description of the financial and organizational resources supporting the pilot plan.

(2) Applications may be submitted to the director's office on or after November 15, 1993. Applications received before the effective date of OAR Chapter 440, Division 25, shall be subject

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to any revision required by those rules. Applications received in the director's office after 5 p.m. on May 31, 1994 will not be considered.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1 (1), & (4), 2, 3 & 4, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0080

Authorization of Pilot Plans

(1) The director shall have sole discretion regarding the authorization of pilot plans. Applications will be evaluated by the director in order of their receipt. The director shall have sole discretion in determining if an application is complete. Within 30 days of receiving a complete application, but in no event prior to the effective date of OAR Chapter 440, Division 25, the director shall provide a written notice of findings to the plan sponsors. That notice shall:

(a) Specify approval or rejection of the application and the grounds for that decision; or

(b) Specify additional information needed to clarify the application and a deadline for submitting that information. Within 30 days of receiving timely additional information, the director shall provide a written notice of findings, as described in subsection (a) of this section. If the additional information is not provided by the deadline, the application shall be rejected.

(2) In evaluating and authorizing pilot plans, the director may consider, but not be limited to, the following criteria:

(a) The extent to which the plan helps the pilot program achieve a diversity of participants and plan designs;

(b) The potential of the plan to mutually benefit workers, employers, medical providers and insurers;

(c) For a plan that involves workers represented by a recognized or certified collective bargaining agent, the concurrence of the bargaining agent and the terms of the bargaining agreement;

(d) The financial and organizational resources of the plan sponsors;

(e) The ability of the plan sponsors to meet the evaluation requirements described in OAR 440-025-0170; and

(f) The resources available within the Department of Consumer and Business Services to manage the pilot program.

(3) "24-Hour Coverage" is a registered service mark of the Department of Consumer and Business Services. A pilot plan may use the mark, in an identical or similar form, by entering into a pilot plan agreement with the director.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0090

Revocation of Pilot Plan Authority

(1) The director may revoke the authority of a pilot plan at any time if in the judgment of the director, one or more of the following, or similar, conditions exist:

(a) The pilot plan or any sponsor does not comply with all applicable provisions of ORS Chapter 654, 656 or 659, or the **Insurance Code**;

(b) A participating insurer becomes subject to suspension or revocation of its certificate of authority in accordance with ORS 731.414 or 731.418;

(c) The pilot plan is deficient regarding timeliness, accuracy, customer service or other administrative practices;

(d) The pilot plan or any sponsor does not meet the evaluation requirements or reporting requirements described in OAR 440-025-0170 and 440-025-0180;

(e) An unresolved dispute that is subject to OAR 440-025-0100 has a significant detrimental effect on the operation of the pilot plan;

(f) A breach of the pilot plan agreement occurs; or

(g) The successful operation of the pilot plan is jeopardized by a weakness in the financial or operational status of any plan sponsor.

(2) The director shall provide written notice to the plan sponsors in advance of any revocation.

(3) In providing notice, the director shall specify the concerns at issue and shall request a written statement from the sponsors, to be provided within 15 days of the date of the notice, describing how they propose to remedy the concerns.

(4) Upon completion of review of the proposed remedy, the director shall provide a written response that:

(a) Approves the remedy;

(b) Requests additional information; or

(c) Provides notice of proposed revocation in accordance with ORS 183.482.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Department of Consumer and Business Services.]

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0100

Pilot Plan Oversight and Dispute Resolution

(1) Oversight Committee:

(a) Each pilot plan shall appoint an Oversight Committee to monitor plan performance and to coordinate plan operations;

(b) The committee shall consist of at least one representative from each plan sponsor and the committee members, or their positions, shall be named in the pilot plan application;

(c) The committee shall review plan operations on a regular basis and shall coordinate activities needed to assure effective operations; and

(d) If specialized matters, including but not limited to medical treatment issues, come before the committee, the committee shall enlist the services of qualified personnel to assist in the review.

(2) Dispute Resolution:

(a) The Oversight Committee shall hear and attempt to resolve disputes regarding plan operations among covered members, plan sponsors and other affected parties;

(b) The committee shall serve as the primary source of dispute resolution for matters that specifically relate to the 24-hour coverage aspects of the pilot plan;

(c) Disputes that relate to the general operation of the group health portion of the pilot plan shall be resolved in accordance with the provisions of that portion of the plan;

(d) Disputes regarding compensable injuries are subject to the dispute resolution provisions of ORS Chapter 656. Disputes regarding medical services for compensable injuries are subject to the provisions of OAR Chapter 436, Divisions 10 and 15 and OAR Chapter 438, Division 9;

(e) The committee shall not hear disputes unless the committee and all affected parties agree that the dispute is specifically related to the 24-hour coverage aspects of the pilot plan and does not involve an issue for which dispute resolution procedures exist under subsection (c) or (d) of this section;

(f) If a dispute cannot be resolved by the committee within 30 days of receiving first notice of the dispute, the dispute shall be referred by the committee to the director;

(g) The director shall review the dispute and shall issue a written determination to the committee;

(h) The decision of the director shall not preclude any party from pursuing any remedy available to it by law. However, an unresolved dispute may be grounds for termination of the plan, in accordance with OAR 440-025-0090; and

(i) A full description of the dispute resolution process shall be included in the plan disclosure materials provided to covered members.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented:

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0110

Provider Networks

(1) A pilot plan may deliver medical services through a

limited network of participating health care providers and may restrict plan coverage for non-network providers as follows:

(a) Non-Compensable Injuries: Coverage may be restricted in accordance with the provisions of the group health plan portion of the plan; and

(b) Compensable Injuries: Coverage may be restricted in accordance with the provisions of ORS Chapter 656, OAR Chapter 436, Division 15 and 440-025-0120.

(2) If network restrictions apply, the pilot plan shall include provisions to assure adequate coverage of emergency services and treatment needs outside of the plan's service area.

(3) The terms and conditions of network coverage and a listing of all participating providers by service category shall be fully disclosed in the pilot plan application and to all plan members.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0120

Managed Care

(1) Workers enrolled in a pilot plan that includes a managed care organization (MCO) contract, as defined in ORS 656.260, shall be deemed to be subject to the provisions of the MCO contract immediately upon their enrollment in the pilot plan.

(2) A pilot plan may require plan members to designate a participating physician as their primary care physician (PCP). The designated PCP shall be responsible for providing primary care services to the plan members and may serve as a "gatekeeper" or manager of care for additional services. The pilot plan application shall specify:

(a) The category or categories of licensed practitioners who are authorized to serve as a PCP in the pilot plan; and

(b) The criteria by which a plan member may be referred by a PCP to other participating, licensed practitioners. For compensable injuries, in accordance with ORS 656.260(4)(b), such referrals shall not discriminate against or exclude from participation in the plan any category of medical service provider.

(3) Compensable medical treatment from a PCP who is not a member of the MCO shall be available in accordance with ORS 656.260(4)(g).

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS 705.135 & § 1, Ch. 758, OL 1993

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0130

Pilot Plan Coverage

(1) Covered Members: For compensable injuries, covered members of the plan shall be limited to subject workers of the participating employer, as defined in ORS 656.027. For non-compensable injuries, covered members shall include subject workers and may include their family members.

(2) Disclosure to Covered Members: Each pilot plan must provide written disclosure of plan provisions to covered members in a timely, accurate, complete and understandable manner. Each disclosure to plan members must comply with the provisions of the **Insurance Code**, Workers' Compensation Law and related rules.

(3) Medical Services:

(a) Coverage of compensable injuries must comply with all provisions of ORS Chapter 656, except as specifically exempted by the director in accordance with OAR 440-25-160. In accordance with ORS 656.245, it is the responsibility of the workers' compensation plan to ensure that all required medical services are provided for every compensable injury;

(b) Coverage of non-compensable injuries must comply with the terms of the group health plan portion of the pilot plan; and

(c) Nothing in these rules shall be construed to establish concurrent or double coverage of the same injury or illness under subsections (a) and (b) of this section.

(4) Coordination of Medical Coverage: Once a compensable injury becomes medically stationary, coverage of medical services that are included in the group health portion of a pilot plan, but are

excluded from coverage under ORS Chapter 656, shall not be denied to pilot plan members solely because the services relate to a compensable injury.

(5) Co-Payments and Deductibles:

(a) Coverage of compensable injuries shall not require any co-payment or deductible to be paid by subject workers. Coverage of non-compensable injuries may require co-payments or deductibles to be paid by plan members;

(b) If a workers' compensation claim has been filed by a covered worker, co-payments and deductibles may not be collected from the worker for any medical services related to the claim, unless the claim has been denied. If the claim is subsequently denied or the services are determined to be unrelated to the claim, the worker may be billed retroactively and held liable for such co-payments or deductibles; and

(c) If any co-payment or deductible is paid by a subject worker for medical services that are later determined to be compensable, the pilot plan shall refund the amount paid within 15 days of the determination.

(6) Effective Date of Coverage: Coverage under a pilot plan shall begin on the effective date specified in the pilot plan agreement. Workers' compensation coverage shall not be interrupted because of the initiation of a pilot plan. Coverage under a pilot plan shall not be delayed for any injured worker on account of an existing compensable injury. Ongoing medical services for the existing injury shall comply with the provisions of OAR Chapter 436, Divisions 10 and 15.

(7) Coverage Beyond the Expiration of a Pilot Plan:

(a) Coverage of compensable injuries beyond the expiration of a pilot plan must comply with the provisions of ORS Chapter 656. No interruption of workers' compensation coverage shall occur solely because of the expiration of a pilot plan;

(b) Coverage, if any, of non-compensable injuries beyond the expiration of a pilot plan is subject to the terms of the group health plan portion of the plan; and

(c) To ensure continuity of care, the pilot plan application shall specify the manner in which covered members will receive medical services beyond the expiration of a pilot plan.

(8) Payment of Premiums:

(a) Premiums for the group health plan portion of a pilot plan may be shared by the employer and the covered members in accordance with the terms of that portion of the plan. Premiums for the workers' compensation portion must be fully paid by the employer, as required under ORS 656.236(5);

NOTE: "Premiums" for workers' compensation do not include the worker-paid assessments required under ORS 656.506 and 656.538.

(b) In integrated plans, a delineation of the premiums attributable to the two portions of coverage must be maintained by the plan to ensure compliance with subsection (a) of this section.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Department of Consumer and Business Services.]

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0140 (

Operation of Integrated Plans

1) The liability of an integrated plan to provide medical services for compensable injuries may be limited to a contract period stipulated in the pilot plan application. The liability to provide medical services for compensable injuries beyond the limitation date shall revert to the employer's workers' compensation plan. No interruption of workers' compensation coverage shall occur because of such reversion of liability.

(2) The liability of an integrated plan to provide medical services for non-compensable injuries shall be limited to the contract period stipulated in the pilot plan application.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0150

Claims Administration

(1) Claims administration shall comply with ORS Chapter 656 and related rules. Nothing in the operation of a pilot plan shall hinder workers from submitting claims or encourage workers to seek group health plan coverage for compensable injuries in lieu of workers' compensation plan coverage.

(2) A claims examiner shall have responsibility for decision making or benefit determination in a claim, in accordance with OAR Chapter 436, Division 55. Payment of medical bills and medical care management may be performed by persons other than a claims examiner, as specified in the pilot plan application.

(3) Average Claim Response Period: Each pilot plan agreement shall establish a goal for an average claim response period within which the plan intends to furnish notice of acceptance or denial of claims. The period shall be the average elapsed days, for all claims administered by the pilot plan, from the date the employer has notice or knowledge of the claim until the pilot plan provides notice of acceptance or denial. The goal period shall not exceed the average actual response period achieved by the involved workers' compensation plan or company during the 12 months prior to the implementation of the pilot plan. In no event shall the response period for an individual claim exceed the 90 days specified in ORS 656.262(6):

(a) In accordance with Chapter 758, Oregon Laws 1993, the presentation of a medical bill to the carrier or the employer under the pilot program does not in itself constitute a claim under ORS Chapter 656; and

(b) The average claim response period shall be reported quarterly by each pilot plan, in accordance with OAR 440-025-0080. Failure to meet the specified response period may be grounds for termination of the pilot plan, in accordance with OAR 440-025-0035.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0160

Exemptions to ORS Chapter 656

(1) The director may exempt a pilot plan from specified administrative provisions of ORS Chapter 656 for the purpose of fostering innovation and efficiency in plan operations.

(2) The sponsors of a pilot plan shall identify each desired exemption in the pilot plan application, or an addendum to an approved application, and shall cite the relevant statutory and rule provisions. The application shall also describe the function and expected benefits of the desired exemption(s).

(3) Exemptions shall be limited to those approved by the director in a pilot plan agreement or addendum or specified in section (5) of this rule.

(4) An authorized exemption applies only to the specified pilot plan and does not extend to any other workers' compensation plan maintained by a participating insurer or employer.

(5) Exemption for Physician Payment: A pilot plan may use a federally approved Resource Based Relative Value Schedule (RBRVS) and a dollar conversion factor agreed to by the plan and the participating physicians in lieu of the Oregon Relative Value Schedule (ORVS) required in OAR Chapter 436, Division 10. If adopted by the plan, the RBRVS shall apply to compensable and non-compensable injuries and to all participating physicians.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0170

Evaluation of Pilot Plan Results

(1) The director shall evaluate each pilot plan on its ability to enhance the delivery and improve the cost effectiveness of medical services for workers and employers. The evaluation shall compare the results of pilot plans with the results of non-24-hour coverage arrangements. The criteria and methodology for the evaluation shall be determined by the director, with the prior advice of pilot plan sponsors. The sponsors of each pilot plan shall agree to participate in the evaluation process as a condition of

operating their pilot plan.

(2) The evaluation criteria to be considered by the director shall include, but not be limited to:

(a) The cost of workers' compensation and group health coverage and related administrative services;

(b) Return-to-work results;

(c) The cost and frequency of litigation regarding compensable injuries;

(d) Variations in treatment and costs between compensable and non-compensable injuries; and

(e) Satisfaction levels among participating workers, employers, insurers and medical service providers.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0180

Reporting Requirements

(1) The sponsors of each pilot plan shall provide the following reports to the director:

(a) A written overview of pilot plan results for each three months of plan operations. The report shall outline the operating results of the plan, including significant issues which arose and the responding action taken by the plan and shall specify the Average Claim Response Period, in accordance with OAR 440-025-0150. The report shall be compiled after each three month period of plan operations and shall be mailed to the director by the 20th day of the subsequent month;

(b) All reports specified by the director in accordance with OAR 440-025-0170.

(2) Nothing in this rule limits the director's authority to require information from the plan sponsors as necessary to monitor the plan's compliance with the requirements of the pilot program.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0190

Approval of Policy Language

A 24-hour medical insurance policy shall not be issued or delivered to a participating employer until a copy of the form is filed and approved by the director as conforming with the applicable requirements of the **Insurance Code**. The forms are subject to review in accordance with ORS Chapter 742 filing procedures.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Department of Consumer and Business Services.]

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0200

Approval of Rates and Rating Plans

(1) Each insurer participating in the pilot program shall file with the director the rates, rating plans and rating systems applicable to the pilot program and provide a copy of the filing to the licensed rating organization in accordance with OAR 836-042-0015(8).

(2) The director shall review these filings in accordance with ORS 737.320 filing procedures.

(3) When applicable, ORS Chapter 737 review standards shall apply to the workers' compensation policies and related components of 24-hour medical insurance policies and ORS 742.005 standards shall apply to the group health policies and related components of 24-hour medical insurance policies. When separation of such review standards is not possible, ORS 737.310(1) standards shall apply.

(4) All rate filings for workers' compensation policies under the pilot program shall comply with the experience and merit rating requirements and application of rating modification factors of OAR 836-042-0015(6)(b) and 836-085-0201 to 836-085-0230

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and ORS 737.320(11) and 737.322(2). A participating insurer may apply such rating methods to the workers' compensation component of a 24-hour medical insurance policy.

(5) A participating insurer shall not apply a rating system that will not permit the insurer to comply with the statistical reporting requirements of OAR 440-025-0115.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0210

Residual Plans

(1) A pilot plan shall not incorporate the "assigned risk" coverage of the Oregon Workers' Compensation Insurance Plan or involve employers insured pursuant to ORS 656.730 and OAR 836-043-0001 to 836-043-0025.

(2) Insurance premiums subject to assessment for the operation of the Oregon Workers' Compensation Insurance Plan may be allocated by the National Reinsurance Pool as follows:

(a) Coordinated Plans: The assessments shall apply to the premiums for the separate lines of coverage which are described in the separate policies; and

(b) Integrated Plans: The assessments shall apply to the premiums for the workers' compensation portion of the plan, as if separate policies were in force.

(3) Assessments under ORS 735.614 for the Oregon Medical Insurance Pool shall apply to group health policies and the group health plan portion of 24-hour medical insurance policies operated under the pilot program.

(4) Any insurer that provides a 24-hour medical insurance policy is a health insurer for purposes of assessments under ORS 735.614.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0220

Examination of Records

The director, in accordance with the **Insurance Code**, may make or cause to be made examinations of the books and records of the sponsors of a pilot plan to ensure compliance with these rules and the pilot plan agreement.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Department of Consumer and Business Services.]

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0230

Assessments and Premium Taxes

Assessments, as applicable under ORS 656.612 and 731.804, and premium taxes, as applicable under ORS 731.816 and 731.832, shall be imposed as follows:

(1) Coordinated Plans: The assessments and premium taxes shall follow the separate lines of coverage described in the separate policies.

(2) Integrated Plans: The assessments and premium taxes shall follow the separate lines of coverage, as if separate policies were in force.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0240

Guaranty Associations

Assessments for the Oregon Insurance Guaranty Association, as applicable under ORS 734.510 to 734.710, and the Oregon Life and Health Insurance Guaranty Association, as applicable under ORS 734.750 to 734.890, shall be imposed as follows:

(1) Coordinated Plans: The assessments shall follow the separate lines of coverage described in the separate policies.

(2) Integrated Plans: The assessments shall follow the

separate lines of coverage, as if separate policies were in force.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0250

Statistical Reporting

(1) The Workers' Compensation Portion of a Pilot Plan: The sponsors of a pilot plan shall provide the reporting required under OAR 836-042-0040 to 836-042-0045 for the workers' compensation portion of a pilot plan. If the reporting sponsor is a workers' compensation insurer, the reporting must be in the manner described in OAR 836-042-0040 to 836-042-0045. If the reporting sponsor is not a workers' compensation insurer, the reporting shall be in accordance with the Pilot Workers' Compensation Statistical Plan of the licensed workers' compensation insurance rating organization, filed and approved December 21, 1993.

(2) The Group Health Portion of a Pilot Plan: The sponsors of a pilot plan shall report the experience of the group health portion of the plan in accordance with the Pilot Health Statistical Plan of the licensed workers' compensation insurance rating organization, filed and approved December 21, 1993.

(3) If the reporting sponsor submits data via hard copy rather than electronic media, a data entry charge may apply.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

440-025-0260

Agents, Adjustors, and Third Party Administrators

(1) Agents: For purposes of servicing insurance under a pilot plan or soliciting prospective insureds, agents possessing a general lines insurance license or a health insurance license shall be deemed to be servicing and soliciting within the scope of their licenses, pursuant to Chapter 758, Oregon Laws 1993 and notwithstanding OAR 836-71.

(2) Managing General Agents: For purposes of managing a pilot plan for a casualty insurer, managing general agents licensed pursuant to ORS 744.300 shall be deemed to be transacting casualty insurance, pursuant to Chapter 758, Oregon Laws 1993.

(3) Adjustors:

(a) Adjustors exempted by ORS 744.515 from obtaining an adjustor's license who are adjusting their insurer's pilot plan shall be deemed to be transacting the class of insurance for which their insurer is authorized, pursuant to Chapter 758, Oregon Laws 1993; and

(b) Adjustors who do not qualify under subsection (a) of this section, but who fulfill the requirements of ORS 744.525 and 744.535, may be issued a 24-Hour Insurance Adjustors' License, pursuant to ORS 744.531(3).

(4) Third Party Administrators: Third party administrators licensed pursuant to ORS 744.706 who are administering a pilot plan shall be deemed to be transacting health insurance, pursuant to Chapter 758, Oregon Laws 1993 and notwithstanding OAR 836-075-0050.

Stat. Auth.: ORS 705.135(2) & Sec. 1(4), Ch. 758, OL 1993

Stats. Implemented: ORS

Hist.: DCBS 1-1993, f. & cert. ef. 12-29-93

DIVISION 35

LICENSING OF SELLERS OF TRAVEL

General Provisions

440-035-0010

Definitions

(1) As used in ORS 646.200(1) "authorized surety insurer" is a person authorized to conduct an insurance business in the state of Oregon by the Department of Consumer and Business Services

(2) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations

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(whether or not organized for profit), or limited liability companies.

(3) "Seller of Travel" means a person defined in ORS 646.200(6).

(4) "Transacting business in this state" means selling, providing, furnishing, contracting for, arranging or offering to sell, provide furnish, or contract for air sea or land transportation, whether at wholesale or retail, to persons in Oregon from within or into the state of Oregon.

(5) "Wholesaler" means a person who does not maintain a retail outlet in the state of Oregon at which they transact business and who offer, advertise, or sell travel certificates.

(6) "Travel Certificates" as defined at ORS 646.200(7) includes, but is not limited to vacation certificates.

Stat. Auth.: ORS 645.216

Stats. Implemented: ORS 645.200

Hist.: DCBS 1-1995, f. & cert. ef. 10-24-95

440-035-0020

Application Procedure

Each person desiring to register as a Seller of Travel shall make application to the Director by submitting the following:

(1) A completed application on a form approved by the Director;

(2) Pursuant to the provisions of ORS 646.208:

(a) Financial Security in the form of an original surety bond or letter of credit; or,

(b) A copy of the Notice to Financial Institution of Establishment of a Clients' Trust Account executed by an authorized representative of the financial institution;

(3) For the period from five years from the date of the application to register or renew a registration to the present:

(a) A notarized affidavit in a form approved by the director stating that there has been no litigation or unresolved complaints filed with a governmental authority of any state or the United States relating to the operation of the business of a seller of travel; or

(b) A statement disclosing all litigation and unresolved complaints filed with a governmental authority of any State or the United States relating to the operation of the business of a seller of travel including the name and address of the complaining party or, in the case of litigation, the name and case number and the name and address of the court of jurisdiction.

(4) For a seller of travel who is a wholesaler, a copy of travel certificates which will be sold, marketed or distributed to any person by the seller.

(5) A check made payable to the Department of Consumer and Business Services in the amount of \$200.00 (\$100 a year for two years) Registration fees are non refundable except if a person voluntarily withdraws their registration in the first 12 months, a refund of the second 12 month fees will be made upon receipt of written request for refund.

Stat. Auth.: ORS 645.216

Stats. Implemented: ORS 645.200

Hist.: DCBS 1-1995, f. & cert. ef. 10-24-95

440-035-0030

Renewal Procedure

A registrant shall renew their registration for a 24 month period. Renewal applications must be submitted at least 30 days prior to the expiration of a registration and shall include:

(1) An application on a form approved by the director.

(2) A copy of:

(a) Renewal of surety bond or a current letter of credit; or

(b) A statement that the clients' trust account information previously submitted is still current;

(3) For the period from five years from the date of the renewal application to the present:

(a) A notarized affidavit in a form approved by the director stating that there has been no litigation or unresolved complaints filed with a governmental authority of any state or the United States relating to the operation of the business of a seller of travel; or

(b) A statement disclosing all litigation and unresolved complaints filed with a governmental authority of any State or the United States relating to the operation of the business of a seller of travel including the name and address of the complaining party or, in the case of litigation, the name and case number and the name and address of the court of jurisdiction.

(4) For a seller of travel who is a wholesaler, a copy of travel certificates which will be sold, marketed or distributed to any person by the seller.

(5) A check made payable to the Department of Consumer and Business Services in the amount of \$200.00 (\$100 a year for two years). Registration fees are non refundable except if a person voluntarily withdraws their registration in the first 12 months, a refund of the second 12 month fees will be made upon receipt of written request for refund.

Stat. Auth.: ORS 645.216

Stats. Implemented: ORS 645.214 & 645.216

Hist.: DCBS 1-1995, f. & cert. ef. 10-24-95

440-035-0040

Complaints and Information Requests

(1) Complaints against Sellers of Travel shall be filed with the Department of Justice, Financial Fraud Section.

(2) The Department of Consumer and Business Services, Division of Finance and Corporate Securities will respond to telephone requests for the registration status of Sellers of Travel. All other requests for information must be in writing.

Stat. Auth.: ORS 645.216

Stats. Implemented: ORS 645.216

Hist.: DCBS 1-1995, f. & cert. ef. 10-24-95