

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**

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

Oregon Department of Consumer and Business Services, Insurance Division

836

Agency and Division

Administrative Rules Chapter Number

Clarifying six month guarantee issue period and establishing "birthday rule" for Medicare supplement insurance.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Adopting OAR 836-052-0143, and amending OAR 836-052-0138.

Statutory Authority: ORS 731.244, 743.010, 743.683 and 743.684.

Other Authority:

Stats. Implemented: ORS 743.010, 743.683 and 743.684

Need for the Rule(s):

These proposed rules were developed in response to numerous complaints received by the Department of Consumer and Business Services regarding open enrollment periods and unexpected rate increases with respect to Medicare supplement policies. To address these complaints, the proposed rules:

- Clarify that for a person who receives "retroactive" eligibility for Medicare as a result of an appeal of an initial denial for eligibility, the six month open enrollment period begins after the person is notified of their eligibility, not on the date the person's eligibility has been backdated to.
- Adopt a "birthday rule" for Medicare supplement policies to allow an individual the opportunity to change Medicare supplement plans (as long as the new policy has the same or lesser benefits) with guaranteed issue and nondiscrimination in rating once per year for a period of thirty days beginning on the individual's birthday.

Public comments should be submitted in a timely manner, as the Department intends to make these rules effective upon adoption.

Documents Relied Upon, and Where They are Available:

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): None
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: This rule is imposed on insurers who issue Medicare Supplement insurance policies and certificates. It is unlikely that any insurer subject to this rule is a small business.
  - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None
  - c. Equipment, supplies, labor and increased administration required for compliance: None

How were small businesses involved in the development of this rule?

Because small business are not subject to the rule, none have been included in this rulemaking process. Insurance producers who may be small businesses, may see an increase in business as a result of the implementation of the "birthday rule."

Administrative Rule Advisory Committee consulted?: Yes.

If not, why?: N/A.

(Signed)

Berri Leslie, Deputy Insurance Administrator

November 10, 2011

Signature

Printed name

Date