

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES, INSURANCE DIVISION

2 DIVISION 100

3 CHILDREN'S HEALTH INSURANCE

4 CHILDRENS REINSURANCE PROGRAM

5 **836-100-0011**

6 **Purpose and Statutory Authority**

7 **(1) The purpose of OAR 836-100-0011 to 836-100-0045 is to assure that children have**
8 **affordable health care coverage options in Oregon's individual health insurance market and**
9 **the Healthy KidsConnect program with guaranteed issue and no pre-existing condition period**
10 **through the establishment of a Children's Reinsurance Program.**

11 **(2) OAR 836-100-0011 to 836-100-0045 are adopted pursuant to the authority of the**
12 **Department of Consumer and Business Services under ORS 731.244 to carry out the purposes**
13 **of ORS 743.731 and chapter 131, Oregon Laws 2011 (Enrolled Senate Bill 514) to encourage**
14 **the availability of individual health benefit plans and Healthy KidsConnect coverage for**
15 **individuals under the age of 19 who are not enrolled in employer-sponsored group health**
16 **plans.**

17 Stat. Auth.: ORS 731.244 & 743.731

18 Stats Implemented: ORS 743.731 and chapter 131, Oregon Laws 2011 (Enrolled Senate Bill 514)

19 Hist.:

20 **836-100-0016**

21 **Definitions**

22 **As used in OAR 836-100-0011 to 836-100-0045:**

23 **(1) "Applicant" means a child under the age of 19 or the parent or adult representative of a**
24 **child who is applying for coverage under an individual health benefit plan or under a Healthy**
25 **KidsConnect health benefit plan, either as a child-only or as a member of a family policy.**

26 **(2) "Carrier" means an insurance company or health care service contractor holding a valid**
27 **certificate of authority from the Director of the Department of Consumer and Business**
28 **Services that authorizes the transaction of health insurance.**

1 **(3) “Claim” includes a request for payment under the terms of an individual health benefit**
2 **plan or under a Healthy KidsConnect health benefit plan, or the costs of utilization or for an**
3 **encounter between a provider and a child covered by the Children’s Reinsurance Program.**

4 **(4) “DCBS” or “department” means the Department of Consumer and Business Services or**
5 **any entity or agency administering the Children’s Reinsurance Program on behalf of the**
6 **Department of Consumer and Business Services.**

7 **(5) “Healthy KidsConnect” means a health benefit plan established pursuant to ORS 414.231.**

8 **(6) “Standard Health Statement” means the Oregon Standard Health Statement described in**
9 **OAR 836-053-0510.**

10 Stat. Auth.: ORS 731.244 & 743.731

11 Stats Implemented: ORS 743.731 and chapter 131, Oregon Laws 2011 (Enrolled Senate Bill 514)

12 Hist.:

13 **836-100-0010 (Amend and Renumber)**

14 **836-100-0020**

15 **Non-grandfathered Individual and Healthy KidsConnect Health Insurance Enrollment**
16 **[Periods] for Persons Under 19 Years of Age**

17 (1) [An insurer] **A carrier** that issues a non-grandfathered individual **or Healthy KidsConnect**
18 health [insurance policy subject to Sections 1201 and 10103 of the Patient Protection and
19 Affordable Care Act, Public Law 111-148, issued or renewed on or after September 23, 2010,]
20 **benefit plan** may not limit, exclude, or deny health insurance coverage under a non-
21 grandfathered individual **or Healthy KidsConnect** health insurance policy based on health
22 status or preexisting condition of a person under the age of 19 years. **However, a carrier may**
23 **cede to the Children’s Reinsurance Program the risk of a person under the age of 19 years in**
24 **accordance with OAR 836-100-0011 to 836-100-0045.**

25 [(2) Except as provided in section (4) of this rule, an insurer that issues a non-grandfathered
26 individual health insurance policy subject to Sections 1201 and 10103 of the Patient Protection
27 and Affordable Care Act, Public Law 111-148, issued or renewed on or after September 23, 2010
28 that provides coverage for persons under 19 years of age, must allow a person under the age of
29 19 years to enroll in, as a dependent or as the primary policyholder if eligible, and obtain
30 individual health insurance coverage during the following time periods:

31 [(a) The month of February each year beginning February 1, 2011.

32 [(b) The month of August of each year beginning August 1, 2011.

1 [(c) The 30-day period after the date the insurer receives notice of loss of other individual
2 coverage if:

3 [(A) Such notice is provided to the insurer no later than the 60th day after the loss of coverage;

4 [(B) The loss of other coverage results from:

5 [(i) Legal separation;

6 [(ii) Divorce;

7 [(iii) Cessation of dependent status;

8 [(iv) Death of the primary policyholder; or

9 [(v) Incurrence of a claim that meets or exceeds a lifetime limit on all benefits; and

10 [(C) The person under 19 years of age is not eligible for group coverage.]

11 [(3)] **(2) Coverage under a** health [insurance coverage] **benefit plan**:

12 (a) [Provided] **Ceded** under [subsections (2)(a) and (b) of this rule] **OAR 836-100-0011 to 836-**
13 **100-0045** shall be effective on the [earlier of the first eligible plan date according to the terms
14 of the plan and the first day of the month following the] date the insurer [receives the
15 application and initial premium for such coverage] **normally makes coverage effective under**
16 **the benefit plan selected.**

17 [(b) Provided under subsection (2)(c) of this rule must be, subject to the choice of the applicant,
18 as similar to the prior coverage as is offered by the insurer and shall be effective, upon payment
19 of the premium on the first day following the loss of other coverage.]

20 [(c)]**(b)** Must be effective from the moment of birth for a newly born child of the insured in
21 accordance with ORS 743A.090.

22 [(d)]**(c)** Must be effective upon placement for adoption for an adopted child of the insured in
23 accordance with ORS 743A.090.

24 [(4) An insurer] **(3) A carrier** that issues a non-grandfathered individual health [insurance policy
25 subject to Sections 1201 and 10103 of the Patient Protection and Affordable Care Act, Public
26 Law 111-148:]**benefit plan**

27 [(a) Need not comply with section (2) of this rule if the insurer does not condition, deny, or
28 otherwise limit eligibility for individual coverage based on health status or preexisting conditions
29 of persons under 19 years of age.]

1 [(b)] need not provide coverage to [a person under 19 years of age if the person] **an applicant if**
2 **the applicant** previously had coverage with the [insurer] **carrier** during the 12 months prior to
3 the application for coverage and that coverage was terminated:

4 [(A)] **(a)** For conduct that constituted the basis for a legally valid rescission;

5 [(B) Except as provided in subsection (2)(c) of this rule,] **(b)** For failing to abide by the terms and
6 conditions of the insurance contract, including but not limited to the failure to pay premiums in
7 a timely manner; or

8 [(C) Except as provided in subsection (2)(c) of this rule,] **(c)** By the policyholder.

9 [(5) Except as provided in subsection (2)(c) of this rule, an insurer that issues an individual health
10 insurance policy subject to Sections 1201 and 10103 of the Patient Protection and Affordable
11 Care Act, Public Law 111-148 is not required to provide coverage to a person under 19 years of
12 age as the primary policyholder.]

13 Stat. Auth.: ORS 731.244 & 743.773

14 Stats Implemented: ORS 743.731, 743A.090, 743.769 and chapter 131, Oregon Laws 2011
15 (Enrolled Senate Bill 514)

16 Hist.: ID 19-2010(Temp), f. & cert. ef. 9-23-10 thru 3-21-11; ID 3-2011, f. & cert. ef. 2-10-11

17 **836-100-0025**

18 **Eligible Carriers and Plans**

19 **(1) A carrier that issues an individual or Healthy KidsConnect health benefit plan in Oregon to**
20 **children under 19 years of age must issue the plan on a guaranteed issue basis with no pre-**
21 **existing conditions.**

22 **(2) A carrier may consider information provided on the standard health statement or other**
23 **internally available health records or data of the carrier for the purpose of determining**
24 **whether to cede a risk.**

25 **(3) A carrier:**

26 **(a) May cede to the Children’s Reinsurance Program under OAR 836-100-0011 to 836-100-**
27 **0045 the risk of an applicant accepted for coverage under any individual health benefit plan**
28 **offered by the carrier in Oregon on or after August 1, 2011.**

29 **(b) May not cede a risk for a person under the age of 19 who enrolls in a portability health**
30 **benefit plan as defined in ORS 743.760, unless the applicant is currently ceded with the**
31 **carrier.**

1 **(c) Shall notify DCBS if the carrier decides to cede the risk. At the time the carrier notifies the**
2 **department, the carrier must provide the following to the department:**

3 **(A) Information about the plan that the applicant selected;**

4 **(B) An explanation of the basis for the premium for the applicant;**

5 **(C) Demographic information in accordance with application materials provided by the**
6 **program.**

7 **(4) If a child insured under a health benefit plan provided by a carrier and not ceded by the**
8 **carrier under the Children's Reinsurance Program subsequently applies with the same carrier**
9 **for coverage under a health benefit plan that provides more comprehensive coverage, the**
10 **carrier may exercise the option to cede the risk at the time the child changes health benefit**
11 **plans. The carrier shall comply with the same time limits for exercising the option to cede as**
12 **set forth in OAR 836-100-0040.**

13 **(5) A carrier participating in the Healthy Kids program may cede risks acquired under that**
14 **program only if the carrier first receives the enrollment notification from the Healthy**
15 **KidsConnect office on or after August 1, 2011;**

16
17 Stat. Auth.: ORS 731.244 & 743.731

18 Stats Implemented: ORS 743.731 and chapter 131, Oregon Laws 2011 (Enrolled Senate Bill 514)

19 Hist.:

20 **836-100-0030**

21 **Role of Carrier that Cedes Risk**

22 **(1) When a carrier cedes risk to the Children's Reinsurance Program:**

23 **(a) The carrier shall continue to administer and manage the policy for the insured in**
24 **accordance with the policy terms including but not limited to managing the risk to reduce**
25 **costs.**

26 **(b) The carrier may not retain any portion of the premium.**

27 **(2) A designation as a ceded risk will last until January 1, 2014. If a child attains an age of 19**
28 **or older before January 1, 2014, the child shall remain in the program as a ceded risk as long**
29 **as the child remains with the same carrier. If a child changes carriers, the new carrier may**

1 **make a new determination about whether to cede the risk in accordance with OAR 836-100-**
2 **0025.**

3 **(3) Each carrier shall submit to DCBS a report for risks ceded to the Children’s Reinsurance**
4 **Program for which the carrier continues to manage and provide administrative support. The**
5 **report shall be submitted in accordance with a schedule agreed upon by the department and**
6 **the carrier and shall include for each insured:**

7 **(a) Identification;**

8 **(b) Reported claims;**

9 **(c) Reported paid claims; and**

10 **(d) Premium received or earned.**

11 Stat. Auth.: ORS 731.244 & 743.731

12 Stats Implemented: ORS 743.731

13 Hist.:

14 **836-100-0035**

15 **Administrative Costs and Variable Expenses under Children’s Reinsurance Program**

16 **For health benefit plan coverage provided by a carrier participating in the Children’s**
17 **Reinsurance Program, a carrier may not retain a premium for:**

18 **(1) Child only policies for which the risk is ceded to the Children’s Reinsurance Program.**

19 **(2) Any portion of a family or subscriber and children policy ceded to the program. For a**
20 **family policy or a subscriber and children policy, the total premium allocated to a child for**
21 **whom coverage is ceded shall be calculated by determining the total premium due for all**
22 **children on the policy, divided by the number of children on the policy.**

23 Stat. Auth.: ORS 731.244 & 743.731

24 Stats Implemented: ORS 743.731 and chapter 131, Oregon Laws 2011 (Enrolled Senate Bill 514)

25 Hist.:

26 **836-100-0040**

27 **Health Assessment Period**

28 **(1) Except as provided in section (2) of this rule, the carrier shall determine whether to cede a**
29 **risk to the Children’s Reinsurance Program within 105 days after the effective date of**

1 coverage. The Healthy KidsConnect carrier shall determine whether to cede a risk to the
2 Children’s Reinsurance Program within 105 days after the effective date of coverage.

3 (2) If a carrier opts not to cede a risk within the first 105 days from the effective date of
4 coverage, the carrier may retroactively cede the risk within six months after for the effective
5 date of coverage if:

6 (a) The carrier identifies an error in the standard health statement; and

7 (b) The error is such that, had the carrier known about the condition to which the error
8 pertains within the 105 days allowed to determine whether to cede the risk, the carrier
9 would have ceded the risk.

10 (3) The ceding of a risk under this rule shall be retroactive to the insured’s effective date of
11 coverage.

12 Stat. Auth.: ORS 731.244 & 743.731

13 Stats Implemented: ORS 743.731 and chapter 131, Oregon Laws 2011 (Enrolled Senate Bill 514)

14 Hist.:

15 836-100-0045

16 Claims and Premium Reconciliation

17 (1) A carrier shall submit the report required by the Children’s Reinsurance Program to obtain
18 reimbursement of claims paid on a ceded life.

19 (2) Any adjustments for third party liabilities recovered by a health carrier shall be adjusted
20 and reconciled according to the reporting and reconciliation schedule of the Children’s
21 Reinsurance Program.

22 (3) A carrier may retain pharmacy rebates.

23 (4) Commercial reinsurance recoveries shall be adjusted and reconciled according to the
24 reporting and reconciliation schedule of the Children’s Reinsurance Program.

25 (5) Premiums received in excess of claims submitted will be retained by the Children’s
26 Reinsurance Program to apply toward payment of future claims incurred by ceded lives.

27 (6) Claims incurred during an active period of coverage for a ceded life must be filed within
28 12 months of the date of service and no later than December 31, 2014 to be eligible for
29 reimbursement through the Children’s Reinsurance Program.

1 Stat. Auth.: ORS 731.244 & 743.731
2 Stats Implemented: ORS 743.731 and chapter 131, Oregon Laws 2011 (Enrolled Senate Bill 514)
3 Hist.:

4 **836-100-0015- Repealed**

5 ***[Notice of Enrollment Periods for Persons Under 19 Years of Age in Non-grandfathered***
6 ***Individual Health Insurance Policies***

7 *[(1) An insurer that issues a non-grandfathered health insurance policy that provides coverage*
8 *to a person under the age of 19 years according to OAR 836-100-0010(2) must provide, at a*
9 *minimum, written notice, which includes notice written in electronic format, of the enrollment*
10 *periods listed in OAR 836-100-0010(2):*

11 *[(a) To its policyholders at least 30 days prior to but no more than 60 days prior to each*
12 *enrollment period;*

13 *[(b) To the public by prominently posting such notice on its public website at least 30 days prior*
14 *to the open enrollment period through the end of the open enrollment period; and*

15 *[(c) In pre-enrollment materials.*

16 *[(2) An insurer that issues a non-grandfathered health insurance policy that provides coverage*
17 *to a person under the age of 19 years according to OAR 836-100-0010(2) must provide notice of*
18 *the enrollment periods listed in OAR 836-100-0010(2)(c) to persons eligible for coverage during*
19 *such enrollments within five business days after the insurer learns of the person's eligibility.*

20 *[(3) A health insurer covering persons under the age of 19 years according to OAR 836-100-*
21 *0010(2) must implement eligibility and enrollment periods consistent with OAR 836-100-*
22 *0010(2).]*

23 Stat. Auth.: ORS 731.244 & 743.773

24 Stats Implemented: ORS 743.731, 743A.090 & 743.769

25 Hist.: ID 19-2010(Temp), f. & cert. ef. 9-23-10 thru 3-21-11; ID 3-2011, f. & cert. ef. 2-10-11