

## State Continuation of Health Insurance

### 836-053-0851 (NEW)

#### Purpose; Authority; Applicability; and Enforcement

(1) OAR 836-053-0851 to 836-053-0866 are permanent rules that repeal and replace permanent rules OAR 836-053-0850 to 836-053-0865 and temporary amendments to those 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 836-053-0851 to 836-053-0866 apply to insurers issuing continuation coverage as required under ORS 743.610.

Stat. Auth.: ORS 731.244, 743.610 & Ch. 73, OL 2009 (HB 2433)

Stats. Implemented: ORS 743.610, Ch. 73, OL 2009 HB 2433

Hist.:

### 836-053-0856 (NEW)

#### Definitions

As used in OAR 836-053-0851 to 836-053-0866:

(1) “American Recovery and Reinvestment Act of 2009” means the Public Law 111-5 as amended by Public Law 111-118, the Fiscal Year 2010 Department of Defense Appropriations Act (HR 3326), and as further amended by Public Law 111-144, the Temporary Extension Act of 2010 (HR 4691) and Public Law 111-157, the Continuing Extension Act of 2010 (HR 4851).

(2) “Certificate holder” means any covered employee or qualified beneficiary who:

(a) Is eligible for continuation coverage because the employee is no longer eligible for coverage under group health plan due to reduction of hours of employment or termination of employment;

(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).

(3) “Involuntary termination” means a qualifying event in which the employer determines, based on a reasonable interpretation of the description of an assistance eligible individual under the American Recovery and Reinvestment Act of 2009 and administrative guidance provided under the American Recovery and Reinvestment Act of 2009, that the qualifying event with respect to state continuation coverage for an individual was involuntary termination of a covered employee’s employment, and the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee.

(4) “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.

(5)(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.

(6) “Qualifying event” means:

(a) An involuntary termination of employment during the period beginning September 1, 2008 and ending May 31, 2010; or

(b) On or after March 2, 2010 and before June 1, 2010, a reduction of hours that results in a loss of coverage under a group health insurance policy.

(7)(a) “Transition period” means, with respect to any assistance eligible individual, any period of coverage if:

(A) The involuntary termination that was the qualifying event occurred before December 19, 2009; and

(B) The subsidy allowed under the American Recovery and Reinvestment Act of 2009 applies to such period due to the extension of the state continuation period to 15 months.

(b) Any period of time during the transition period for which the assistance eligible individual pays the applicable premium under OAR 836-053-0866(9) shall be treated as a period of coverage for which timely payment of premium was paid, irrespective of any failure to timely pay the applicable premium for such period.

Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)

Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)

Hist.:

836-053-0861 (NEW)

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.

(3)(a) In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to state continuation coverage on or after October 31, 2009, the insurer shall provide, no later than February 17, 2010, an additional notification consisting of the following:

- (A) A qualifying event means involuntary termination of employment during the period of September 1, 2008 and ending February 28, 2010;
- (B) Assistance eligible individuals are eligible to continue coverage for a period of fifteen months beginning with the coverage month first following the qualifying event;
- (C) A transition period exists for assistance eligible individuals who became eligible for a premium subsidy under the American Recovery and Reinvestment Act of 2009 before December 19, 2009 and whose state continuation coverage has now been extended to fifteen months due to availability of the subsidy for that period of time;
- (D) Assistance eligible individuals who did not timely pay the premium for any period of coverage during their transition period may now pay premiums retroactively in accordance with OAR 836-053-0866(9).

(b) In the case of a qualifying event occurring after December 19, 2009, the insurer shall provide notification consistent with this rule.

(4) In the case of an assistance eligible individual who did not timely pay the premium for any period of coverage during the individual's transition period the insurer shall provide to the individual, within the first 60 days of the start of the individual's transition period, an additional notification. The additional notification shall include the information required in section (3) of this rule and information on the ability to make retroactive premium payments in accordance with OAR 836-053-0866(9) with respect to the transition period of the individual in order to maintain state continuation coverage.

(5) In the case of an individual described in OAR 836-053-0866(11), the insurer involved shall provide, within 10 days following the date of an individual's involuntary termination of employment, an additional notification described in OAR 836-053-0861(2), including information on the provisions of 836-053-0866(11).

(6) In the case of an individual for whom the qualifying event occurred on or after March 1, 2010 and before March 10, 2010, or on or after April 1, 2010 and before April 26,

2010, the insurer involved shall provide the notice required under section (1) and (2) of this rule no later than March 21, 2010, or May 17, 2010, respectively.

Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)

Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)

Hist.:

836-053-0866 (NEW)

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 836-053-0861(1), certificate holders who received the notice under paragraph (a) of this section 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 15 months of

continuation coverage beginning with the coverage month first following the qualifying event.

(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 836-053-0861(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 15 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 section (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 a period of 15 months beginning with the coverage month first following the qualifying event.

(9) In the case of any premium for a period of coverage during an assistance eligible individual's transition period, the individual shall be treated for purposes of any state continuation provision as having timely paid the amount of such premium if:

(a) The individual was covered under the state continuation coverage to which the premium relates for the period of coverage immediately preceding the transition period; and

(b) The individual pays the individual's 35 percent share of the total premium:

(A) Not later than February 17, 2010; or

(B) If the transition period extends beyond February 17, 2010, not later than 30 days after the date notification required under OAR 836-053-0861(4) is provided to the individual.

(10) In the case of an assistance eligible individual who pays, with respect to any period of state continuation coverage during the individual's transition period, the full premium amount for such coverage, the insurer shall:

(a) Make a reimbursement payment to the individual for the amount of premium paid in excess of the 35 percent share of the total premium; or

(b) Provide credit to the individual for the amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay for the coverage involved.

(11)(a) For the purposes of the state continuation provisions under ORS 743.610, in the case of an individual who did not make, or who made and discontinued, an election of state continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of the individual on or after March 2, 2010 shall be treated as a qualifying event.

(b) In any case of an individual referred to in subsection (a) of this section, the period of the individual's continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

(c) Nothing in this section shall be construed as requiring an individual referred to in subsection (a) of this section to make a payment for state continuation coverage between the reduction of hours and the involuntary termination of employment.

(d) The period of time beginning on the date of the qualifying event described in this section 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.

(e) The provisions of this section apply to individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period that begins with September 1, 2008, and ends with May 31, 2010, followed by an involuntary termination of employment that occurred on or after March 2, 2010 and before June 1, 2010.

Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)

Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)

Hist.:

**[836-053-0850] REPEALED**

**[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, 743.610 & Ch. 73, OL 2009 (HB 2433)]*

*[Stats. Implemented: ORS 743.610, Ch. 73, OL 2009 HB 2433]*

*[Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09; ID 8-2009, f. & cert. ef. 10-23-09]*

**[836-053-0855] REPEALED**

**[Definitions]**

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

*[(1) “American Recovery and Reinvestment Act of 2009” means the Public Law 111-5 as amended by Public Law 111-118, the Fiscal Year 2010 Department of Defense Appropriations Act (HR 3326), and as further amended by Public Law 111-144, the Temporary Extension Act of 2010 (HR 4691) and Public Law 111-157, the Continuing Extension Act of 2010 (HR 4851).]*

*[(2) “Certificate holder” means any covered employee or qualified beneficiary who:*

*[(a) Is eligible for continuation coverage because the employee is no longer eligible for coverage under group health plan due to reduction of hours of employment or termination of employment;]*

*[(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). ]*

*[(3) “Involuntary termination” means a qualifying event in which the employer determines, based on a reasonable interpretation of the description of an assistance eligible individual under the American Recovery and Reinvestment Act of 2009 and administrative guidance provided under the American Recovery and Reinvestment Act of 2009, that the qualifying event with respect to state continuation coverage for an individual was involuntary termination of a covered employee’s employment, and the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee.]*

*[(4) “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.]*

*[(5)(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.]*

*[(6) “Qualifying event” means:*

*[(a) An involuntary termination of employment during the period beginning September 1, 2008 and ending May 31, 2010; or]*

*[(b) On or after March 2, 2010 and before June 1, 2010, a reduction of hours that results in a loss of coverage under a group health insurance policy.]*

*[(7)(a) “Transition period” means, with respect to any assistance eligible individual, any period of coverage if:*

*[(A) The involuntary termination that was the qualifying event occurred before December 19, 2009; and ]*

*[(B) The subsidy allowed under the American Recovery and Reinvestment Act of 2009 applies to such period due to the extension of the state continuation period to 15 months. ]*

*[(b) Any period of time during the transition period for which the assistance eligible individual pays the applicable premium under OAR 836-053-0865(9) shall be treated as a period of coverage for which timely payment of premium was paid, irrespective of any failure to timely pay the applicable premium for such period. ]*

*[Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)]*

*[Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)]*

*[Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09; ID 8-2009, f. & cert. ef. 10-23-09; ID 13-2009(Temp), f. & cert. ef. 12-23-09 thru 6-18-10; ID 3-2010(Temp), f. & cert. ef. 1-8-10 thru 6-18-10; ID 6-2010(Temp), f. & cert. ef. 3-10-10 thru 6-18-10]*

### **[836-053-0860 ] REPEALED**

#### **[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. ]*
- [(3)(a) In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to state continuation coverage on or after October 31, 2009, the insurer shall provide, no later than February 17, 2010, an additional notification consisting of the following:*
- [(A) A qualifying event means involuntary termination of employment during the period of September 1, 2008 and ending February 28, 2010;]*
- [(B) Assistance eligible individuals are eligible to continue coverage for a period of fifteen months beginning with the coverage month first following the qualifying event;]*
- [(C) A transition period exists for assistance eligible individuals who became eligible for a premium subsidy under the American Recovery and Reinvestment Act of 2009 before December 19, 2009 and whose state continuation coverage has now been extended to fifteen months due to availability of the subsidy for that period of time;]*
- [(D) Assistance eligible individuals who did not timely pay the premium for any period of coverage during their transition period may now pay premiums retroactively in accordance with OAR 836-053-0865(9).]*
- [(b) In the case of a qualifying event occurring after December 19, 2009, the insurer shall provide notification consistent with this rule.]*
- [(4) In the case of an assistance eligible individual who did not timely pay the premium for any period of coverage during the individual's transition period the insurer shall provide to the individual, within the first 60 days of the start of the individual's transition period, an additional notification. The additional notification shall include the information required in section (3) of this rule and information on the ability to make retroactive premium payments in accordance with OAR 836-053-0865(9) with respect to the transition period of the individual in order to maintain state continuation coverage.]*
- [(5) In the case of an individual described in OAR 836-053-0865(11), the insurer involved shall provide, within 10 days following the date of an individual's involuntary termination of employment, an additional notification described in OAR 836-053-0860(2), including information on the provisions of 836-053-0865(11).]*
- [(6) In the case of an individual for whom the qualifying event occurred on or after March 1, 2010 and before March 10,2010, or on or after April 1, 2010 and before April 26, 2010, the insurer involved shall provide the notice required under section (1) and (2) of this rule no later than March 21, 2010 or May 17, respectively. ]*

*[Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)]*

*[Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)]*

*[Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09; ID 8-2009, f. & cert. ef. 10-23-09; ID 13-2009(Temp), f. & cert. ef. 12-23-09 thru 6-18-10; ID 3-2010(Temp), f. & cert. ef. 1-8-10 thru 6-18-10; ID 6-2010(Temp), f. & cert. ef. 3-10-10 thru 6-18-10]*

**[836-053-0865 ] REPEALED**

**[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 section 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 15 months of continuation coverage beginning with the coverage month first following the qualifying event.]*

*[(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 15 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 section (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 a period of 15 months beginning with the coverage month first following the qualifying event. ]*

*[(9) In the case of any premium for a period of coverage during an assistance eligible individual's transition period, the individual shall be treated for purposes of any state continuation provision as having timely paid the amount of such premium if:*

*[(a) The individual was covered under the state continuation coverage to which the premium relates for the period of coverage immediately preceding the transition period; and ]*

*[(b) The individual pays the individual's 35 percent share of the total premium:*

*[(A) Not later than February 17, 2010; or ]*

*[(B) If the transition period extends beyond February 17, 2010, not later than 30 days after the date notification required under OAR 836-053-0860(4) is provided to the individual.]*

*[(10) In the case of an assistance eligible individual who pays, with respect to any period of state continuation coverage during the individual's transition period, the full premium amount for such coverage, the insurer shall:*

*[(a) Make a reimbursement payment to the individual for the amount of premium paid in excess of the 35 percent share of the total premium; or ]*

*[(b) Provide credit to the individual for the amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay for the coverage involved.]*

*[(11)(a) For the purposes of the state continuation provisions under ORS 743.610, in the case of an individual who did not make, or who made and discontinued, an election of state continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of the individual on or after March 2, 2010 shall be treated as a qualifying event.]*

*[(b) In any case of an individual referred to in subsection (a) of this section, the period of the individual's continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment. ]*

*[(c) Nothing in this section shall be construed as requiring an individual referred to in subsection (a) of this section to make a payment for state continuation coverage between the reduction of hours and the involuntary termination of employment.]*

*[(d) The period of time beginning on the date of the qualifying event described in this section 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. ]*

*[(e) The provisions of this section apply to individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period that begins with September 1, 2008, and ends with May 31, 2010, followed by an involuntary termination of employment that occurred on or after March 2, 2010 and before June 1, 2010. ]*

*[Stat. Auth.: ORS 731.244, 743.610 & 2009 OL Ch. 73 (HB 2433)]*

*[Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (HB 2433)]*

*[Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09; ID 8-2009, f. & cert. ef. 10-23-09;*

*[ID 13-2009(Temp), f. & cert. ef. 12-23-09 thru 6-18-10; ID 3-2010(Temp), f. & cert. ef. 1-8-10*

*[thru 6-18-10; ID 6-2010(Temp), f. & cert. ef. 3-10-10 thru 6-18-10]*