

1 **836-053-0855**

2 **Definitions**

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

4 **(1) “American Recovery and Reinvestment Act of 2009” means the Public Law 111-**
5 **5 as amended by the Fiscal Year 2010 Defense Appropriations Act (HR 3326).**

6 [(1)] **(2)** “Certificate holder” means any covered employee or qualified beneficiary who:

7 (a) Is eligible for continuation coverage;

8 (b) Elects continuation coverage;

9 (c) Is subject to a qualifying event; and

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

12 [(2)] **(3)** “Covered employee” means a certificate holder who has been insured
13 continuously under a policy or similar predecessor policy during the three-month period ending
14 on the date of the termination of employment or membership.

15 [(3)] **(4)(a)** “Qualified beneficiary” means a covered employee under a group health plan
16 or any other individual who, on the day before the qualifying event for that employee, is a
17 beneficiary under that plan as the spouse of the covered employee or as the dependent child of
18 the employee, including a child born or placed for adoption after the qualifying event or during
19 the period the covered employee is eligible for continuation coverage.

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

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

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

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

25 (ii) Coverage under a health flexible spending arrangement as defined in section
26 106(c)(2) of the Internal Revenue Code of 1986; or

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

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

30 [(4)] **(5)** “Qualifying event” means involuntary termination of employment and loss of
31 group health insurance coverage during the period beginning September 1, 2008 and ending
32 December 31, 2009.

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

35 **(A) The period begins before December 21, 2009; and**

36 **(B) The subsidy allowed under the American Recovery and Reinvestment Act of**
37 **2009 applies to such period due to the extension of the state continuation period to 15**
38 **months.**

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

43
44 Stat. Auth.: ORS 731.244, 743.610 & Ch. 73 OL 2009 (HB 2433)

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

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

1 **836-053-0860**

2 **Notification**

3 (1) An insurer subject to the requirements of ORS 743.610 and chapter 73, Oregon Laws
4 2009 (Enrolled House Bill 2433) shall provide a notice explaining continuation of benefits
5 directly to individuals losing group coverage, for any reason other than group replacement of
6 coverage, within 10 days following the date of any administrative action taken by an insurer to
7 initiate or document the loss of coverage.

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

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

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

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

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

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

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

18 (g) Instructions about the employee's responsibility to notify the insurer if the employee
19 becomes ineligible for the subsidy; and

20 (h) Instructions about how to appeal denials for treatment as a certificate holder.

21 **(3)(a) In the case of an individual who was an assistance eligible individual at any**
22 **time on or after October 31, 2009, or experiences a qualifying event (consisting of**
23 **termination of employment) relating to state continuation coverage on or after October 31,**
24 **2009, the insurer shall provide, no later than February 21, 2010, an additional notification**
25 **consisting of the following:**

26 **(A) A qualifying event means involuntary termination of employment during the**
27 **period of September 1, 2008 and ending February 28, 2010;**

28 **(B) Assistance eligible individuals are eligible to continue coverage for a period of**
29 **fifteen months beginning with the coverage month first following the qualifying event;**

30 **(C) A transition period exists for assistance eligible individuals who became eligible**
31 **for a premium subsidy under the American Recovery and Reinvestment Act of 2009 before**
32 **December 21, 2009 and whose state continuation coverage has now been extended to fifteen**
33 **months due to availability of the subsidy for that period of time;**

34 **(D) An assistance eligible individual who has paid the full premium during the**
35 **transition period is entitled to a refund or credit as specified in OAR 836-053-0865(10);**

36 **(E) Assistance eligible individuals who did not timely pay the premium for any**
37 **period of coverage during their transition period may now pay premiums retroactively in**
38 **accordance with OAR 836-053-0865(9).**

39 **(b) In the case of a qualifying event occurring after December 21, 2009, the insurer**
40 **shall provide notification consistent with this rule.**

41 **(4) In the case of an assistance eligible individual who did not timely pay the**
42 **premium for any period of coverage during the individual's transition period or paid the**
43 **full premium for the transition period without regard to the subsidy, the insurer shall**
44 **provide to the individual, within the first 60 days of the start of the individual's transition**
45 **period, an additional notification. The additional notification shall include the information**
46 **required in section (3) of this rule and information on the ability to make retroactive**

1 **premium payments in accordance with OAR 836-053-0865(9) with respect to the transition**
2 **period of the individual in order to maintain state continuation coverage.**

3
4 Stat. Auth.: ORS 731.244, 743.610 & Ch. 73 OL 2009 (HB 2433)

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

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

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8 **836-053-0865**

9 **Provisions Relating to Premium Subsidy for State Continuation Coverage**

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

12 (a) Premium subsidy for continuation of coverage;

13 (b) An opportunity to elect continuation of coverage that is in addition to the period
14 allowed under ORS 743.610(5);

15 (c) Continuation of coverage for a period of time that exceeds the period allowed under
16 ORS 743.610(7)(a); and

17 (d) An option to enroll in different coverage if the employer permits certificate holders to
18 elect enrollment in different coverage.

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

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

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

28 (B) Certificate holders who elected continuation coverage during the period allowed
29 under ORS 743.610(5) but whose continuation coverage ended for any reason prior to April 28,
30 2009;

31 (b) Within 31 calendar days after the insurer provides the notice required under OAR
32 836-053-0860(1), certificate holders who received the notice under paragraph (a) of this
33 subsection must return the following items according to instructions provided by the insurer:

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

36 (B) The individual's tax identification number;

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

38 (D) The initial premium if required.

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

42 [(A) *Nine*] **15** months of continuation coverage beginning with the coverage month first
43 following the qualifying event[; *or*]

44 [(B) *Until November 30, 2009*].

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

4 (4)(a) Within 31 calendar days after the insurer provides the notice required under OAR
5 836-053-0860(1), certificate holders who become eligible on or after April 28, 2009 must return
6 the following items according to any instructions provided by the insurer:

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

9 (B) The individual's tax identification number;

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

11 (D) The initial premium, if required.

12 (b) A certificate holder who becomes eligible on or after April 28, 2009 is eligible to
13 continue coverage for a period of [*nine*] **15** months beginning with the coverage month first
14 following the qualifying event. However, the premium subsidy available to the individual shall
15 not exceed any period of limitation specified in the American Recovery and Reinvestment Act of
16 2009 (P.L. 111-5)

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

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

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

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

25 (d) The different coverage is not:

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

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

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

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

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

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

43 [(a)] a period of [*nine*] **15** months beginning with the coverage month first following the
44 qualifying event[; or]

45 [(b) *Until November 30, 2009*].

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

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

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

8 **(A) Not later than February 21, 2010; or**

9 **(B) If the transition period extends beyond February 21, 2010, not later than 30**
10 **days after the date notification required under OAR 836-053-0860(4) is provided to the**
11 **individual.**

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

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

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

20
21 Stat. Auth.: ORS 731.244, 743.610 & Ch. 73 OL 2009 (HB 2433)

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

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

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