

Department of Consumer & Business Services
Oregon Insurance Division

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STANDARDS FOR LEGAL EXPENSE ORGANIZATIONS FORMS, RATES, AND RULES

This product standards checklist has been provided as an aid to assist you in preparing your filing. ORS 731.296, OAR 836-010-0011(2) & (3). This checklist includes relevant statutes, rules, bulletins, and other documented positions to enforce ORS 731.016.

The standards are summaries. Review of the entire statute or rule may be necessary. After diligent consideration has been given to each item, mark as instructed. When yes, N/A, or no are not an option, provide page and paragraph. "Not applicable" can be used only if the item does not apply to the coverage being filed. Any line left blank may result in the delay or disapproval of the filing.

Compliance with these provisions must be certified by both the filer and an officer of the company signing the Certificate of Compliance form.

Filing of simple endorsements, title or declaration pages do not require a checklist of standards; see the Web site.

IMPORTANT NOTICE – 2015 LEGISLATION: Senate Bill 922, Chapter 504, Oregon Laws 2015, Effective 06/18/2015

This new legislation provides the following exemption for a legal access provider, currently regulated under Oregon's Insurance Code, who provides access to legal forms and limited legal services for a monthly fee and provides consumer referrals for legal representation that exceeds the limited legal services, paying an administration fee to the attorney. Senate Bill 922 creates a statutory exception for legal access providers if the administration fee is no more than \$6.00 per month.

TOI (type of insurance): 33.0 Other Lines of Business

Sub-type code: 33.0001 Other Personal Lines

Review requirements	Reference	Description of review standards requirements	Location of standard in filing (or check the box)
GENERAL REQUIREMENTS (FOR ALL FILINGS)			
Requirements	OAR 836-010-0011, OAR 836-014-0035 As required on SERFF or our Web site	<p>Required filing requirements are located on SERFF or on our Web site at: www.insurance.oregon.gov/docs/serff/filing_requirements.html.</p> <p>The correct information must be attached to the appropriate schedule items in order for your filing to be considered complete.</p> <p>The clean copy of the submitted form must be attached under the Form Schedule tab. Each form filed for approval must be attached to a separate Schedule Item under this tab. The form number should appear exactly as shown on the PDF document. Any edition/revision date used in the form number must be included under the Form Number column. It is not necessary to use the Edition Date column. Please do not include the edition date in both the form number column and the edition date column. The Form Type column needs to be completed correctly. The Action Specific Data column must be completed by providing the Oregon Filing Number, or the SERFF Tracking Number of the previous filing. The form number must also include the correct edition date of the form being replaced.</p> <ol style="list-style-type: none"> 1. Either the General Information tab, or a Cover letter or Filing Memorandum attached under the Supporting Documentation tab, has been used to explain the intent or purpose of the forms/rules/rates. 2. A third party filers' letter of authorization has been attached if applicable. 3. The signed Certificate of Compliance, form 440-3894 is attached to the Supporting Documentation tab. 4. For form submissions, a comparison document (annotated, highlighted, red-lined, or side-by-side) been provided under the Supporting Documentation tab for each previously approved form. 5. The rates and/or rules are attached to the Rate Schedule tab. An actuarial memorandum or other documentation that provides an overview of the contents of the filing, and the reasons and procedures used to support the rate change has been attached to the Supporting Documentation tab. 6. The forms being filed for approval are attached to the Form Schedule tab. 	<p>Yes N/A</p> <p><input type="checkbox"/> <input type="checkbox"/></p>

Review requirements	Reference	Description of review standards requirements	Location of standard in filing (or check the box)
Review	ORS 742.003(1), ORS 737.205	Check all that are submitted in this filing for review: 1. New policy or program. 2. Endorsements 3. Certificate of Insurance, if using a master policy. 4. Rates and rules.	Yes N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Requirements	ORS 742.003, ORS 737.205, ORS 750.675	Prior approval of all forms is required. No policy has been issued or will be issued upon the forms in this filing until approved. Rates can be used only after receipt by the Division.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>
	ORS 750.595	An organization must provide a membership agreement to each member of a group that is a party to a legal expense plan. Each membership agreement shall contain at least the following: (1) A listing and clear description of the legal services promised or for which expenses are to be reimbursed and a clear explanation of the limits of the services. (2) The copayments, deductibles or fees, if any, that the member is required to pay. (3) The name and address of the principal place of business of the legal expense organization offering the plan. (4) If the plan offers a limited choice of providing attorneys, a mechanism for providing the services of an alternate attorney in case representation by the designated providing attorney would be improper, unethical or impractical under the circumstances. (5) A provision for review for settling disagreements about the grounds for demanding an alternative attorney or any benefit. (6) All criteria by which a member may be denied renewal of membership.	Yes <input type="checkbox"/>
Access to courts	ORS 742.061	Attorney fees - If a claim settlement is not made within six months and action is brought to court, and the plaintiff's recovery exceeds the amount paid by the defendant, the court will set attorney fees to be paid as part of the costs of legal action and any appeal.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>
FORMS			
Application	ORS 742.013	Claims cannot be denied based upon information provided by the insured, or on behalf of an insured, unless the signed application is made part of the policy. If the application is attached to, or made part of the policy, prior approval of the application is required.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Location of standard in filing (or check the box)
Arbitration	ORS 36.600, ORS 36.740	The policy provides for arbitration if claim settlement cannot be reached. The parties may elect arbitration by mutual agreement at the time of the dispute after the claimant has exhausted all internal appeals and can only be binding by consent of the insured person. <i>(If the policy provides for arbitration when claim settlement cannot be reached and the policy owner elects arbitration, arbitration takes place under the laws of Oregon held in the insured's county or any other county in this state agreed upon.)</i>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Bankruptcy	ORS 742.031, ORS 750.585	The policy includes a bankruptcy provision. If the plan is insolvent the member shall only pay co-payments and deductibles as scheduled in the membership agreement.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Cancellation & nonrenewal	ORS 742.005	The form must provide a reasonable number of days advance notice if the legal expense organization decides to cancel the member's coverage. Typically, that would be a 10 day notice for non-payment of premium and a 30 day notice for any other reason.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.023, ORS 750.615	The policy clearly defines the cancellation refund method.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 750.595	The agreement contains all criteria by which a member may be denied renewal of membership.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Discrimination	ORS 746.015, OAR 836-081-0010	The policy does not unfairly discriminate in availability of insurance, application or rates, dividends, or other benefits or terms and conditions of insurance policies.	Yes <input type="checkbox"/>
	ORS 106.300 thru ORS 106.340, Bulletin 2008-2, OAR 836-081-0010	A provision that recognizes a Domestic Partnership is included in the policy. Terms and provisions in the Insurance Code and in rules adopted under the Code that refer to or indicate the marital relationship, its dissolution and dependents in a marital relationship will apply in the same manner to domestic partnerships, to their dissolution and to dependents in the partnership.	Yes <input type="checkbox"/>
Fraud	Bulletin 2010-3	If the policy has fraud, concealment, misrepresentation language, then the application is required to include a fraud warning. If one is included, it is general in nature and does not state that the applicant is "guilty" of fraud, but that he or she "may be" guilty of fraud. Fraud or misstatement warnings that mention criminal or civil penalties must avoid definite statements of the criminal nature of an act, guilt, or possible penalties. A warning that specifies that knowingly providing false information "may be" a crime, which "may be" grounds for criminal or civil penalties is appropriate.	Confirm <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Location of standard in filing (or check the box)
Fraud, continued	ORS 742.013, Bulletin 2010-3	<p>Fraud or misstatement warnings that mention denial of recovery as a possible consequence of an omission, concealment, misstatement or misrepresentation must disclose that in order to deny a claim on this basis, the insurer must demonstrate that the misinformation was material to the content of the contract, that the insurer relied upon this information, and that the misinformation was either provided fraudulently or was material to the risk or hazard assumed by the insurer.</p> <p>Fraud or misstatement warnings that mention cancellation, voiding, or rescission of a policy as possible consequences of an omission, concealment, misstatement or misrepresentation must comply with cancellation notice requirements.</p>	Confirm <input type="checkbox"/>
Misrepresentation /Misstatements	ORS 742.013	A provision in the policy, or the application, makes it clear that statements made by the insured, are representations and not warranties.	Confirm <input type="checkbox"/>
Legibility of forms	ORS 742.005(2), ORS 750.595	The forms are clear and understandable in the presentation of premiums, labels, and description of contents, title, headings, backing, and other indication (including restrictions) in the provisions. The agreement provides a clear description of the legal services promised or for which expenses are to be reimbursed. The agreement also provides a clear explanation of the limits of the services.	Yes <input type="checkbox"/>
	ORS 750.605	<p>(1) No provider agreement or membership agreement may contain provisions that are unfair, discriminatory or misleading, that encourage misrepresentation or misunderstandings of the agreement, that might endanger the solvency of the plan or legal expense organization or that are contrary to law.</p> <p>(2) For the duration of each written membership and provider agreement and for six years following its termination, a legal expense organization shall maintain at its principal administrative office adequate books and records of all transactions between the plan and the providing attorneys, and adequate books and records of all transactions between the plan and members thereof. The Director of the Department of Consumer and Business Services shall have reasonable access to the books and records so long as access does not violate or conflict with the attorney-client privilege recognized under the laws of the State of Oregon.</p>	Yes <input type="checkbox"/>
Loss settlement	ORS 742.053	The insurer will furnish a claim form upon request after notice of claim.	Yes <input type="checkbox"/> No <input type="checkbox"/>
Policy period	ORS 742.048	The policy states that coverage commences at 12:01 a.m. on the policy effective date, unless a binder states otherwise.	Confirm <input type="checkbox"/>
Rebates	ORS 746.035, ORS 746.045	Are inducements or rebates specified in the policy? If "yes," explain in the cover letter and identify the location in the policy and the rating plan.	Yes <input type="checkbox"/> No <input type="checkbox"/>

Ratemaking generally			
Review requirements	Reference	Description of review standards requirements	Location of standard in filing (or check the box)
Credibility	ORS 737.310, OAR 836-010-0021	1. Provide all data used and judgments made. 2. Provide description of methodology used.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
Discrimination	ORS 746.015, OAR 836-081-0010	Rates, rating plans, and rating systems do not discriminate unfairly in the availability of insurance and application of rates.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
Requirements Not Part of a Listed Category	ORS 737.205, ORS 737.310, ORS 750.655	All schedule and tables of premium rates for legal service to be used on risks in this state shall be filed, and any amendments to or corrections of such schedules and tables.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
Loss valuation	ORS 737.310, OAR 836-010-0021	Premiums: 1. Earned premium and earned premium at present rates for each coverage or combined coverages using the extension of exposures or on level factors. 2. A rate level history. 3. Adjustment for inflation. 4. State whether data is on a basic or total-limits basis.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		Loss data: 1. For each coverage, and each year used in calculating the rate level, state whether data is on a basic or total-limits basis.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 737.310, OAR 836-010-0021	2. Each year and coverage includes: • Earned exposures. • Incurred losses. • Loss development factors. • Description of the methodology used to derive the loss development factors. • Unallocated loss adjustment expense. • Allocated loss adjustment expenses. • Ultimate incurred losses and loss adjustment expenses. • Trend factors. • Trended ultimate incurred losses and loss adjustment expense.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		3. If losses are separated into catastrophic and non-catastrophic, a description of the method used to separate losses.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
Rebates	ORS 746.035, ORS 746.045	Are inducements or rebates specified in the policy? If "yes," explain in the cover letter and identify the location in the policy and the rating plan.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Location of standard in filing (or check the box)
Risk classification	ORS 737.310, OAR 836-010-0021	For each rating variable, territory, and tier levels provide the following information:	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		1. Earned premium, earned exposures, incurred loss, and number of claims.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		2. Methodology and judgments used to arrive at the differentials.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		3. Adjustments to ensure homogeneity of rating group characteristics.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		4. All data used and judgments made.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		5. Description of methodology used.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
Investment income	ORS 737.310(9), OAR 836-010-0021	1. Cash flow method. <i>or</i>	Confirm <input type="checkbox"/>
		2. Alternative method showing amount of investment income earned on loss, LAE, and unearned premium reserve to earned premium.	Confirm <input type="checkbox"/>
Trending	ORS 737.310, OAR 836-010-0021	1. Provide all internal loss-trend data or external fast-track-loss-trend data used.	Confirm <input type="checkbox"/>
		2. Separate determinations of loss severity and frequency trends.	Confirm <input type="checkbox"/>
		3. Calculation of annual trend factors including statistical results.	Confirm <input type="checkbox"/>
		4. All data used and judgments made.	Confirm <input type="checkbox"/>
		5. Description of methodology used.	Confirm <input type="checkbox"/>
Underwriting profit & contingencies	ORS 737.310, OAR 836-010-0021	1. Oregon data for commission and brokerage.	Confirm <input type="checkbox"/>
		2. Countrywide data for general and other acquisition expenses as reported in the <i>Insurance Expense Exhibit</i> .	Confirm <input type="checkbox"/>
		3. Oregon data for taxes, licenses, and fees.	Confirm <input type="checkbox"/>
		4. Expense trend.	Confirm <input type="checkbox"/>
		5. Historic experience.	Confirm <input type="checkbox"/>