

945-030-0020 (AMENDED)

Establishment of Administrative Charge Paid by Insurers

(1) After consulting with the advisory committee created by Section 13 of 2015 Senate Bill 1, the Marketplace will annually provide a report on administrative charges to the Director of the Department of Consumer and Business Services.

(2) The report will be posted on the Marketplace's website for public review and comment.

(3) At a minimum, the report will include:

(a) A projection of Marketplace operating expenses, including the Marketplace's share of the department's shared services expenses and operating expenses borne by the Marketplace and reimbursed by another agency, based on the department's budgets, assuming for this purpose that the operating expenses in any actual or expected biennial budget are distributed evenly over the biennium;

(b) A projection of Marketplace enrollment for the next calendar year; and

(c) A proposed administrative charge for the next calendar year.

(4) The department will hold a public hearing on a proposed administrative charge.

(5) No later than the end of the first quarter of a calendar year the Director shall amend or approve an administrative charge for the next calendar year.

(6) Any administrative charge adopted by the Director shall be established in rule.

(7) The administrative charge shall be expressed as a per member per month figure.

(8) The annual administrative charge assessed by the Marketplace shall not exceed the limits set forth in ORS 741.105(2) on the premium or other monthly charge based on the number of enrollees receiving coverage in qualified health plans or stand alone dental plans through the Marketplace during the month of December preceding the report.

(9) By the **15th** [30th] day of **December** [*September*] of every odd year, the department shall:

(a) Calculate the maximum amount of funds that the department may hold under ORS 741.105(3)(b) by calculating:

(A) The Marketplace's fund balance [as of] **no later than** the 30th day of the immediately preceding **November** [*June*] minus:

(B) One-fourth of the Marketplace's budgeted operating expenses for the two-year period beginning on the first day of the immediately preceding July and ending on the 30th day of June of the following odd year;

(b) Examples:

(A) Example 1: If the Marketplace's fund balance is \$1 million as of June 30, 2017 and its operating budget is \$4 million for July 1, 2017 through June 30, 2019, the department would retain \$1 million and

credit carriers \$0.00 because there is no excess fund balance - \$1 million minus (\$4 million divided by 4) is zero;

(B) Example 2: If the Marketplace's fund balance is \$1 million as of June 30, 2017 and its operating budget is \$2.4 million for July 1, 2017 through June, 2019, the department would retain an excess fund balance of \$600,000 and credit a total of \$400,000 to carriers - \$1 million minus (\$2.4 million divided by 4) equals \$400,000; and

(c) Credit each individual carrier participating in the Marketplace an amount equal to the pro-rata share of any positive difference obtained from the calculation described in paragraph (9)(b) of this rule based on the total assessments the carrier paid to the department during the two-year period described in paragraph (9)(a)(A) of this rule plus the pro-rata share of the total assessments paid during the two-year period described in paragraph (9)(a)(A) of this rule by carriers no longer selling qualified health plans through the Marketplace.

(A) Example 1: If the difference in the calculation described in paragraph (9)(b) of this rule is less than or equal to zero on June 30, 2017, there is no excess fund balance and the department would not credit any individual carrier because the fund balance is either zero or negative.

(B) Example 2: If, after performing the calculation described in paragraph (9)(b) of this rule, the excess fund balance is \$1.2 million on June 30, 2017, and Carrier A paid 10% of the total assessments the Marketplace received between July 1, 2015 and June 30, 2017, the department must credit Carrier A a total of \$120,000 — \$1.2 million multiplied by .10 equals \$120,000.

(10) Except as provided in paragraph 11 of this rule, the department shall apply the credit described in paragraph (9)(c) of this rule by reducing each monthly charge assessed during the period described in paragraph (9)(a)(B) by one-twenty-fourth of the credit. For example, if, after performing the calculation described in paragraph (9)(b) of this rule, the excess fund balance is \$1.2 million on June 30, 2017, and Carrier A paid 10% of the total assessments received by the Marketplace between July 1, 2015 and June 30, 2017, the department must credit Carrier A \$5,000 per month in each month the carrier participates in the Marketplace between July 2017 through June 2019 — (\$1.2 million multiplied by .10) divided by 24 equals \$5,000.

(11) If the director determines that application of the credit as described in paragraph (10) of this rule would jeopardize a Marketplace carrier's financial solvency, the department may use any reasonable method to credit the carrier the amount due under paragraph (9)(c) of this rule.

Stat. Auth.: ORS 741.002 & 741.005

Stats. Implemented: ORS 741.105

Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15; OHIE 4-2015, f. & cert. ef. 11-6-15; HMP 1-2016(Temp), f. & cert. ef. 3-25-16 thru 9-19-16; HMP 4-2016, f. & cert. ef. 9-16-16