

1 945-030-0020 (**Amended**)

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3 Establishment of Administrative Charge Paid by Insurers

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5 (1) After consulting with the **advisory committee**[*Advisory Committee*] created by Section 13 of
6 2015 Senate Bill 1, **the Marketplace**[*staff*] will annually provide a[Report on Administrative
7 Charges] **report on administrative charges** to the Director of the Department of Consumer and
8 Business Services[(*Director*)].

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

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

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

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

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

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24 (4) The[Department] **department** will hold a public hearing on a proposed administrative
25 charge.

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

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

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

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

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

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41 (a) **Calculate the** maximum amount[*permissible*] **of funds that the department may hold**
42 **under ORS 741.105(3)(b)[will be calculated] by calculating[comparing the]:**

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44 (A) **The Marketplace’s fund balance as of the 30th day of the immediately preceding June[at**
45 **the end of each December with] minus:**

1 **(B) One-fourth of the Marketplace’s budgeted operating expenses for the two-year period**
2 **beginning on the first day of the immediately preceding July and ending on the 30th day of**
3 **June of the following odd year;***[for the following six-month period (calculated as one-fourth of*
4 *the budgeted operating expenses for the biennium that includes the six-month period). If the fund*
5 *balance exceeds six months of budgeted operating expenses, the Department of Consumer and*
6 *Business Services will return excess funds to carriers on a pro-rata basis, computed from the*
7 *December assessments, in the form of a credit applied against future assessments. The credit will*
8 *be applied no later than the end of the first quarter of the calendar year.]*

9 **(b) Examples:**

10 **(A) Example 1: If the Marketplace’s fund balance is \$1 million as of June 30, 2017 and its**
11 **operating budget is \$4 million for July 1, 2017 through June 30, 2019, the department**
12 **would retain \$1 million and credit carriers \$0.00 because there is no excess fund balance -**
13 **\$1 million minus (\$4 million divided by 4) is zero;**

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

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

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

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

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

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

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2 Stat. Auth.: ORS 741.002 **and 741.005**
3 Stats. Implemented: ORS 741.105
4 Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-
5 15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15; OHIE 4-2015, f. &
6 cert. ef. 11-6-15