

Rating and underwriting assumptions policy effective January 1, 2023, medical/dental

Underwriting guidelines for Oregon groups with 1-50 employees

These underwriting guidelines apply to both medical and dental plans unless otherwise noted.

GROUP ELIGIBILITY REQUIREMENTS

Small employer: Generally speaking, a small employer union trust or association in Oregon must have employed an average of at least one but not more than 50 full-time equivalent employees on business days during the preceding calendar year and employ at least one common law employee who is enrolled in the plan on the first day of the plan year.

For information on how to count employees toward the 1-50 threshold, which employees to count, and how to identify controlled groups, refer to any of these sources:

- OAR 836-053-0015 and Exhibit A to OAR 836-053-0015. (Search for this OAR at <https://secure.sos.state.or.us/oard/processLogin.action>)
- IRS publication, "[Determining if an Employer is an Applicable Large Employer](https://www.irs.gov/Affordable-Care-Act/Employers/Determining-if-an-Employer-is-an-Applicable-Large-Employer)" <https://www.irs.gov/Affordable-Care-Act/Employers/Determining-if-an-Employer-is-an-Applicable-Large-Employer>
- You may also refer to [healthcare.gov](https://www.healthcare.gov), or your legal counsel for information on calculating the number of full-time, full-time-equivalent, and eligible employees.

Guaranteed availability of coverage: We offer our filed and approved small group plans to small employers on a guaranteed issue basis without regard to health status, claims experience, or industry. Small employers may purchase coverage at any point throughout the year for a policy effective date that is the first of the month following submission of a complete Group Application by the due date. Employers must meet the participation and contribution requirements outlined in this document except as follows: During a limited annual group open enrollment, we will accept new small employers who fail to meet the minimum participation and/or contribution requirements if we receive their complete New Group Application, and other required forms, between November 15 and December 15.

Business location: The physical address of the employer's place of business must be within the service area of Kaiser Foundation Health Plan of the Northwest (KFHPNW), except that for the family dental PPO product, the employer group may be located anywhere in Oregon.

Employee location: The business must have eligible employees who either live or physically work at least 50% of the time within the service area. A business may cover employees who live and work outside the service area. Refer to the Out-of-Area Members section of this document for details and limitations.

New businesses: Newly formed small businesses are eligible to apply for coverage. Proof of business status may be required.

Valid employee: An employer/employee relationship must exist, and employees must be represented on the payroll as receiving a wage or commission. Leased employees may be offered coverage if it is offered on the same basis to all similarly situated employees.

One common law employee requirement: At least one common law employee must be enrolled at the beginning of the plan year. This is required for an employer to qualify to purchase a group health benefit plan as a small employer under Oregon regulations. Generally speaking, an employee is considered a common law employee if the employer has the authority to direct and control the manner in which the services are performed by the individual; they perform services for the firm under an employer-employee relationship but they are not a partner in the firm, an independent contractor, or its sole proprietor or their spouse. For more information, see Exhibit A to OAR 836-053-0015.

GROUP RESPONSIBILITIES

Employer contribution: The employer must contribute at least 50% of the employee-only monthly premium. (For bundled plans, employers must contribute the same amount toward each plan, and no less than 50% of the lowest cost plan.)

Employer contribution by employment class: The employer may establish different contribution levels for different classes of employees as long as the minimum contribution is made in all cases and similarly situated employees are treated the same. This should be carefully evaluated in light of the nondiscrimination provisions of the Affordable Care Act (see below).

Employee contribution: The cost of employee and dependent coverage not paid by the employer must be withheld by payroll deduction.

Employee enrollment forms: Eligible and enrolling employees must complete an enrollment form. Only our forms may be used to enroll employees as KFHPNW forms are approved for use by the state. Custom enrollment forms or forms from other insurance carriers may not be used.

Monthly premium payment: The entire amount of the group's monthly premium must be prepaid in a single check or electronic payment to KFHPNW. **After the first month's premium on a new group, future automatic payments may be set up via account.kp.org.**

New employee waiting period: All employer groups must ensure that they do not impose any waiting period in excess of 90 days on their employees. Once an employee satisfies the group's eligibility requirements (which cannot be based solely on a lapse of time but can include an optional orientation period of up to one month) the employee's coverage must become effective on a date no later than the end of the 90-day period. Employers must provide us with an enrollment date for each new subscriber upon request for enrollment. Premium will be pro-rated by day when an employee effective date is other than the first of a month. **Employer groups are responsible for their own tracking and compliance with these requirements.** A uniform waiting period must apply to all employees, regardless of class (if applicable).

Hourly requirement: Groups determine the minimum hourly work requirement for eligibility. A single uniform requirement must apply to all employees; however, it may differ when different coverage is offered to different employment-based classes. Different rules for different classes should be evaluated carefully in light of the nondiscrimination provisions of the Affordable Care Act (see below).

Excluding employment-based classes prohibited: Groups must offer coverage to all employees who meet the group's hourly eligibility requirements. The employer is not allowed to offer coverage to only certain employment-based classes while excluding others.

Different plans by employment class: Groups may choose to offer different benefit plans to different employment-based classes when based on bona fide employment-based classifications that are consistent with the employer's usual business practice. The categories may not relate to the actual or expected health status of the employees or their dependents.

Nondiscrimination provisions of the Affordable Care Act: The Patient Protection and Affordable Care Act (ACA) contains provisions that prohibit favoritism toward highly compensated individuals in benefit plan design or eligibility rules. Employers are subject to financial penalties for noncompliance. Because the definition of "highly compensated individuals" does not have a monetary threshold, and the analysis is complex, we encourage employers to seek appropriate professional advice to determine if these provisions apply to their group health plans.

Please note: In December 2010, the IRS delayed enforcement of the nondiscrimination provisions for fully insured plans until regulations are adopted. Consult IRS Notice 2011-01 (and irs.gov) for more information (reviewed May 2019).

Requests for information: Employers are required to respond to requests for information as necessary in order to determine group size and continued group eligibility in accordance with state and federal laws and any required proof of eligibility of enrolled members.

Proof of business or employment: Copies of the quarterly employee wage report and appropriate employer tax documentation may be required for any group at the underwriting department's discretion.

Workers' compensation: Workers' compensation coverage is required for all employees who are not exempt from occupational coverage.

Open enrollment: An annual open enrollment period is required for eligible employees.

Benefit and eligibility changes: For employers renewing coverage, benefit and eligibility changes can be made only at the contract anniversary date, unless earlier changes are mandated by changes in the law. Requests for benefit or eligibility changes must be submitted by the due date specified in renewal materials.

Premium rates: For newly sold groups, KFHPNW reserves the right to re-rate groups based on actual enrollment at initial sale.

PARTICIPATION REQUIREMENTS

Employee participation for groups with 1-50 employees: 50% of benefit-eligible employees must enroll after excluding those who waive due to other group coverage.

Valid waivers: In determining minimum participation, KFHPNW will count only those employees who are not covered through the individual exchange, an existing group health benefit plan, Medicaid, Medicare, TRICARE, Indian Health Service, or a publicly sponsored or subsidized health plan, including but not limited to the medical assistance program under ORS Chapter 414.

Employers are required to offer coverage to all eligible employees and track the reason employees decline coverage on the Oregon Employer Attestation Declination of Coverage form. Alternatively, employers may obtain a signed Oregon Small Business Employee Declination of Coverage form from each employee who declines coverage. Employers must keep these records on file and produce them upon request to KFHPNW.

Dental coverage: In addition to participation requirements, a minimum of 2 members must be enrolled in order to elect a family dental plan. Family dental PPO plans are available to businesses located anywhere within Oregon; the business does not have to be located within the KFHPNW service area.

Dual carriers — medical and dental coverage: Dual carrier offerings are only permitted for groups with 26-50 employees. A minimum of 5 subscribers must enroll if group offers KFHPNW along with another carrier. When the group offers KFHPNW and another carrier, at least 50% of eligible employees not covered by other group insurance must enroll in one of the plans offered by the group.

EMPLOYEE AND DEPENDENT ELIGIBILITY

Hourly requirement for eligibility: The employer may set minimum hours for employees to be eligible to participate in the plan. The employer must notify us of the employee eligibility requirement for each plan year.

Sole proprietors, owners, and partners: Only common law employees (as a practical matter, W-2 employees) are considered employees for purposes of determining group size. However, a sole proprietor and spouse; a partner and spouse; and the owner and spouse of a corporation wholly owned by the individual or the individual and the individual's spouse do not count as employees in determining market size even if they are also common law/W-2. While not counted for purposes of determining group size, such individuals may still be considered eligible for benefits under the small group plan.

Independent contractors: Independent contractors are eligible under the following conditions: 1) with sufficient proof of contracting relationship and minimum hours worked (as determined by employer) through payroll or paid invoices, 2) provided that employer offers coverage to all independent contractors who meet the criteria for enrollment, and 3) employer must contribute at least 50% of the employee-only monthly premium.

Live or work in service area: Employees must live or physically work at least 50% of the time within KFHPNW's service area. A business may cover employees who live and work outside the service area. Refer to the Out-of-Area Members section of this document for details and limitations.

New employee eligibility: New employees are eligible after serving a waiting period set by the group. (See "New employee waiting period" under "Group responsibilities" above.)

Enrollment when newly eligible: New employees/dependents must enroll within 30 days of attaining eligibility (31 days in the case of newborn and newly adopted children). If no additional premium is required for newborn or newly adopted children, the application requirement is waived, but KFHPNW asks to be notified of the dependent. Please refer to the "Newborns" section of the Group Administrative Guide for small business for information regarding extending enrollment for newborns beyond the state mandated coverage period.

Early retirees: A qualified small employer may offer early retiree coverage if it is offered to all similarly situated employees. The employer must contribute the same toward the early retiree premium as for active employees. (Early retirees are retirees younger than 65.)

Spouse eligibility: If a group elects to cover dependents of the enrolled subscriber, the subscriber's legal spouse is eligible.

Domestic partner eligibility: As required by state law, coverage for state registered domestic partners is included in all small group plans. The employer may choose to offer coverage for nonregistered same-sex and opposite-sex domestic partners. Coverage for opposite-sex domestic partners must be elected.

Dependent enrollment: In order for dependents to enroll, the employee must enroll. Exceptions apply for stand-alone pediatric dental plans and for some COBRA and State Continuation circumstances.

Dependent offering: If the group elects to cover dependents of the employee, coverage must be offered to all dependents of eligible employees.

Dependent age limit: Dependent children are covered through the month of their 26th birthday. Disabled dependents remain eligible if their disability occurred prior to age 26 and proof of incapacity and dependency has been provided to KFHPNW.

DENTAL GUIDELINES — ADDITIONAL INFORMATION

Stand-alone dental: Dental-only coverage, without the purchase of medical coverage, is available to groups of 1-50 employees and a minimum of 2 members enrolled.

Stand-alone pediatric dental: Dental-only groups may not offer a family dental plan alongside a pediatric-only plan. Groups electing medical coverage will always have a stand-alone pediatric dental plan.

Pediatric dental coverage and attestation: We are required to include pediatric dental benefits with our ACA-compliant medical plan(s). By enrolling in a KFHPNW medical plan, each employee and each of their dependents under the age of 19 will be enrolled in a separate pediatric dental plan unless the employer confirms it has purchased other pediatric dental coverage certified by the Oregon Health Insurance Marketplace.

Stand-alone pediatric dental enrollment: Stand-alone pediatric dental enrollment is only permitted for members whose group offers a medical plan and does not offer a family dental plan and/or who do not have a parent subscriber enrolled in the family dental plan offered by the group.

Dental plan bundling: Groups may select a stand-alone traditional (non-PPO) or PPO family dental plan. Groups may also select a traditional (non-PPO) family dental plan and a PPO family dental plan together as a bundle, offering employees a choice between the 2 plans.

Offering requirement: If dental coverage is offered to any part of a group, it must be offered to the entire group.

Voluntary dental plan offering guidelines: Group enrollment minimum requires the greater of 5 employees (subscribers) or 25% enrolled. Employee pays 51% to 100% of premiums through payroll deduction submitted by employer. Employer may contribute up to 49%; however, no employer contribution is required. Voluntary plans may not be offered in combination with nonvoluntary plans.

OUT-OF-AREA MEMBERS

Offering limitations: No more than 49% of a group's subscribers may live and work outside the service area and enroll in a KFHPNW benefit plan. Employees who live and work in another Kaiser Foundation Health Plan service area are considered in-area for this calculation. In no case can more than 49% of enrolled subscribers be both outside the KFHPNW service area and out of state (the employer group contract state).

Plan selection: Employers must elect an Added Choice Out-of-Area plan for employees who live and work outside of the KPNW service area. This Out-of-Area plan may not be richer than plans offered to employees inside the service area, meaning, the PPO Providers level of coverage may not be richer than the Select Providers level (unless it is the leanest out-of-area plan available).

Documentation: A copy of the employer's wage and hour report is required to establish eligibility for all out-of-area subscribers. Additional documentation may be required for out-of-area COBRA participants.

Dental PPO plans — offering limitations: For businesses outside our service area that are eligible for dental PPO plans only, no more than 49% of the benefit-eligible employees may live and work outside Oregon.

Dental PPO plans — documentation: A copy of the employer's wage and hour report is required to establish eligibility for all subscribers who live and work outside of Oregon. Additional documentation may be required for out-of-area COBRA participants.

Retirees: Medicare retirees who live outside the service area are not eligible to enroll because our Medicare plans are not offered outside the KFHPNW service area.

If you have questions about these underwriting guidelines, please contact your insurance producer or KFHPNW Small Business Group representative.

