Underwriting guidelines for groups 1 to 50 employees

EFFECTIVE JANUARY 1, 2027

Kaiser Foundation Health Plan of Washington offers plans that feature the Core network. Its subsidiary, Kaiser Foundation Health Plan of Washington Options, Inc., offers plans that feature the Options, and Access PPO networks. Both follow the underwriting guidelines described below. We are jointly describing them here for your convenience.

Coverage start date

For new groups, materials must be received by the **20th of the month** for coverage to be effective on the 1st of the following month. For renewing groups, materials must be received by the **10th of the month** preceding the renewal date. Incomplete or inaccurate information will delay the effective date of coverage.

Employer guidelines

1. Small group definitions

Generally speaking, a small employer is any person, firm, corporation, partnership, association, or political subdivision that is actively engaged in business that employed an average of at least 1 but no more than 50 employees during the previous calendar year and that employed at least 1 employee on the first day of the plan year. As noted in the following paragraph, the employer must employ at least 1 common law employee.

On November 9, 2015, the Washington state Office of the Insurance Commissioner (OIC) provided the following notifications to carriers: "The OIC has determined that the ACA [Affordable Care Act] and implementing Federal regulations require that to qualify to purchase group coverage, the employer must have at least one common law employee. This requirement supersedes the language of RCW [Revised Code of Washington] 48.43.005(34) that permits sole proprietors with no employees and self-employed individuals to purchase small group coverage. This provision is inconsistent with the ERISA [Employee Retirement Income Security Act of 1974] definition of an 'employee welfare benefit plan' and with the ACA's division between the individual and small group markets. Under these definitions, an employee benefit plan must include at least one common law employee."

Note: Only common law employees (as a practical matter, W-2 employees) are considered employees for purposes of determining group size. However, a sole proprietor or a partner and spouse may not count as employees in determining market if they are also common law/W2 employees. While not counted for purposes of determining group size, such individuals may still be considered eligible for benefits under the small group plan.

Groups that have 51 or more employees (in state or out of state) but have 50 or fewer employees living in the Kaiser Foundation Health Plan of Washington or Kaiser Foundation Health Plan of Washington Options, Inc., service area do not meet the small group definition. They must be underwritten as a large group. Business entities that are affiliated and eligible to file a combined tax return for purposes of state taxation will be considered one employer (even if they are filing separately or have a new/separate tax ID number) for determining group size.

(continues on next page)

(continued from previous page)

Employees on COBRA health insurance are not included in the 50-employee count when determining if a group is a small group. Example: 48 employees and 3 employees on COBRA would be a small group.

2. Conditions of offerings

a. Sole health plan (sole carrier) coverage is a requirement under all offerings for those who reside within our service area.

b. Groups with 1 to 5 employees may offer up to 4 plans. Groups with 6 to 50 employees may offer any number of plans. Where applicable, groups will receive a monthly billing statement for each plan chosen. At least one employee is required to enroll per plan offered. When adding plan offerings, enrollment changes must be provided on Kaiser Permanente census roster or enrollment forms. Groups may choose to offer different benefit plans to different employment-based classes when based in a bona fide employment-based classification that are consistent with the employer's usual business practice or exclude certain classes from coverage. The categories may not relate to the actual or expected health status of the employees and their dependents.

   Proposed rates for new sale prospects and renewals are based on information at the time of the proposal or when renewals were offered. New groups are provided composite rates based on the full census of the group. At renewal, composite rates are based on enrollment by network, not the overall census of the group.

c. Residency requirements are as follows: For Core and Options network plans, 100% of covered employees must reside or work within the service area. For Access PPO network plans, 80% of covered employees must reside or work within the service area. Note: The physical address of the employer's place of business must be within the service area of Kaiser Foundation Health Plan of Washington. The service area consists of those Washington state counties where we have filed our plans and rates. A commercial or home office is acceptable, and an employer must maintain business licensure and/or appropriate state filings allowing the business to conduct business in Washington.

d. Benefit, eligibility, and waiting period changes can be made only during the renewal of the contract anniversary date. A 30-day open enrollment period is required one month before renewal of the contract each year. Groups may set different waiting periods for different classes of employees. However, this should be carefully evaluated in light of federal health care reform provisions regarding treatment of classes of employees. Please see "Nondiscrimination provisions of the Affordable Care Act" below.

e. For groups of 1 to 3 employees, 50% of employees not covered by similar existing coverage must participate/enroll. For groups of 4 or more employees, there are no minimum requirements.

f. Employers must pay a minimum 50% of the employee premium to qualify for group insurance. If an employer selects multiple plans, the employer must pay a minimum 50% of the employee premium on the base plan. Groups 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 nondiscrimination provisions of the Affordable Care Act (see below).

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

(continues on next page)

(continued from previous page)

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

i If a group's coverage has lapsed for any reason other than nonpayment of a premium, a group can reapply for coverage after a one-month lapse.

j. 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.

k. Workers' compensation coverage is required for all employees who are not exempt from occupational coverage. The plan does not cover on-the-job injuries for employees, owners, or partners.

l. For health savings accounts (HSA), employers are required to comply with restrictions on employer contributions.

m. We reserve the right to re-rate or rescind proposal if any of the assumptions prove false or contradictory.

n. **COBRA**: If your company employed 20 or more employees at least 50% of the prior calendar year, your company is required by federal regulations to offer COBRA benefits to terminated employees. If you have any questions regarding COBRA applicability or eligibility, please seek the advice of independent legal counsel.

3. Employee and dependent eligibility

a. New employees and dependents must enroll within 31 days of becoming eligible for an effective date matching the eligibility date, or they must wait until open enrollment. Newborns and adopted children must be enrolled within 60 days of birth or adoption placement.

b. All employees enrolling must complete an Enrollment Application, Employer Declination of Coverage, or Employee Declination of Coverage. The group will maintain enrollment and waiver records for the purpose of regulatory state audits.

c. The subscriber's legal spouse, state-registered domestic partner, and dependent children are eligible. Children 25 and younger are covered. This does not apply to Employee Only contracts.

d. Domestic partner coverage for nonregistered domestic partners is available upon request by the employer. This does not apply to Employee Only contracts.

e. The employee must enroll in order for dependents to enroll. This does not apply to Employee Only contracts.

4. 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 Master Application by the due date. Employees must meet the participation and contribution requirements outlined in this document except as follows: During a limited annual open enrollment, we will accept small employers who fail to meet the minimum participation and/or contribution requirements if we receive the completed Group Master Application between November 15 and December 15.

Requests for information: The group agrees to furnish upon request all data necessary to verify group and employee eligibility, including but not limited to data proving compliance with the underwriting requirements and the terms of the group agreement.

Proof of business or employment: The group agrees to provide proof of group and employee eligibility. Kaiser Foundation Health Plan of Washington (KFHPWA) or Kaiser Foundation Health Plan of Washington Options, Inc.

(continues on next page)

(continued from previous page)

(KFHPWAO), reserves the right to inspect the records and the group in order to verify the eligibility of employees and their dependents. Copies of the quarterly employee wage report and appropriate employer tax documentation may be required for any group at the discretion of KFHPWA or KFHPWAO.

Annual certification: The group must annually complete and return, in advance of the contract anniversary date, all documents requested by KFHPWA or KFHPWAO in order to certify the group as a small group.

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).

Dental plan guidelines

Optional adult dental coverage can be purchased in addition to the medical coverage plan. All adults 19 and older enrolling in the medical plan must also enroll in the dental plan if a dental plan is selected.

There must be common enrollment between medical and dental plans.

Dental coverage is a federally mandated benefit for members 18 and younger. When a medical plan is selected, it will be paired with the pediatric dental plan that is offered by Delta Dental of Washington, unless 1 of the 2 Delta Dental family plans that include this coverage is selected. Delta Dental premiums for employees or dependents on the pediatric plan will be assessed and billed separately from the medical plan. Dual choice is not available on dental plan products.

Enrollment checklist

Once you've selected a plan, this enrollment checklist will help you keep track of everything you need to submit to start coverage.

Kaiser Permanente Washington reserves the right to inspect the records and the group in order to verify the eligibility of employees and their dependents. Copies of the quarterly employee wage report and appropriate employer tax documentation may be required for any group at the discretion of Kaiser Permanente Washington. The employer group will maintain enrollment and waiver records for the purpose of regulatory state audits.

REQUIRED TO SUBMIT

- ☐ **Completed and signed master application**
- ☐ **Copies of Quarterly Wage Reports** for groups of 5 or fewer employees
- ☐ **Completed enrollment forms** for each employee electing coverage OR **completed electronic census**
- ☐ **Enrollment forms for former employees** who are eligible for COBRA

REQUIRED TO KEEP ON FILE

- ☐ A current copy of employer's **Washington state business license**
- ☐ **Waiver form** for each eligible employee declining coverage