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PERMANENT ADMINISTRATIVE ORDER

ED 10-2022

CHAPTER 471

EMPLOYMENT DEPARTMENT

FILED

08/22/2022 11:35 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Administrative provisions related to Paid Leave Oregon program equivalent plans

EFFECTIVE DATE: 08/22/2022

AGENCY APPROVED DATE: 08/18/2022

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RULES:

471-070-2200, 471-070-2205, 471-070-2220, 471-070-2230, 471-070-2250, 471-070-2260, 471-070-2270, 471-070-2330

AMEND: 471-070-2200

RULE TITLE: Equivalent Plans: Definitions

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Amends the administrative rule to define administrative costs, administrator, and declaration of intent used in the Paid Leave Oregon program rules governing employer equivalent plans.

RULE TEXT:

(1) "Administrative Costs" means the costs incurred by an employer directly related to administering an equivalent plan which include, but are not limited to, cost for accounting, recordkeeping, insurance policy premiums, legal expenses, and labor for human resources' employee interactions related to the equivalent plan. Administrative costs do not include rent, utilities, office supplies or equipment, executive wages, cost of benefits, or other costs not immediately related to the administration of the equivalent plan.

(2) "Administrator" means either an insurance carrier/company, third-party administrator, or payroll company acting on behalf of an employer to provide administration and oversight of an approved equivalent plan.

(3) "Declaration of Intent" means a legally binding, signed agreement from an employer documenting the employer's intent and commitment to provide an approved equivalent plan with an effective date of September 3, 2023.

(4) "Employer administered equivalent plan" means an equivalent plan in which the employer offers a private plan where the employer assumes all financial risk associated with the benefits and administration of the equivalent plan, whether it is administered by the employer or a third-party administrator.

(5) "Equivalent plan" means a Paid Family and Medical Leave Insurance (PFMLI) plan approved by the department that provides benefits that are equal to or greater than the benefits provided by the Oregon PFMLI program established under ORS 657B.340.

(6) "Fully insured equivalent plan" means an equivalent plan in which the employer purchases an insurance policy from an insurance company approved to sell PFMLI products by the Oregon Department of Consumer and Business Services (DCBS) Division of Financial Regulation and the benefits related to the plan are administered through the insurance

policy.

(7) "Successor in interest" means a successor to another's interest in property, organization, trade, or business that is carried on and controlled substantially as it was before the transfer in which there is a complete transfer to the successor of the organization, trade, or business, and substantially all of its assets.

(8) "Substantial reduction in personnel," as used in ORS 657B.260 and applicable administrative rules, means a situation in which the number of employees employed by the predecessor of the organization, trade, or business is reduced by at least 33 percent by the successor in interest.

STATUTORY/OTHER AUTHORITY: ORS 657B.340

STATUTES/OTHER IMPLEMENTED: ORS 657B.340, ORS 657B.210, 657B.260, 657B.340

ADOPT: 471-070-2205

RULE TITLE: Equivalent Plans: Declaration of Intent to Obtain Approval of Equivalent Plan

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Clarifies that equivalent plans become effective as of September 3, 2023, when benefits also begin. Clarifies how and when an employer must submit an equivalent plan application or a Declaration of Intent and includes provisions on withholding employee contributions and paying employer contributions.

RULE TEXT:

(1) Approved equivalent plans become effective on September 3, 2023, at the same time Paid Family and Medical Leave Insurance (PFMLI) benefits may first be paid to eligible employees. However, the department is accepting equivalent plan applications beginning September 6, 2022.

(2) No later than May 31, 2023, an employer who wishes to provide an equivalent plan with an effective date of September 3, 2023 must submit to the department an equivalent plan application that meets the requirements of OAR 471-070-2210.

(3) Equivalent plan application:

(a) To be exempt from paying required quarterly contribution payments to the Oregon PFMLI program in accordance with ORS 657B.150 and OAR 471-070-3030(6), an employer that is going to provide its employees with an equivalent plan as of September 3, 2023, must receive approval of an equivalent plan application. The equivalent plan application must be submitted to the department by the following dates:

(A) By November 30, 2022, to be exempt from paying and remitting the contribution payments beginning with the first quarter that starts January 1, 2023.

(B) By February 28, 2023, to be exempt from paying and remitting contribution payments beginning with the second quarter that starts April 1, 2023.

(C) By May 31, 2023, to be exempt from paying and remitting contribution payments beginning with the third quarter that starts July 1, 2023.

(b) For equivalent plan applications submitted on or after June 1, 2023 and before July 1, 2023, the equivalent plan application, if approved by the department, will be exempt from paying and remitting contribution payments beginning with the fourth quarter that starts October 1, 2023.

(c) For equivalent plan applications submitted on or after July 1, 2023, the equivalent plan application must follow OAR 471-070-2210, and the employer is liable for all contributions required to be paid or remitted in accordance with ORS 657B.150 prior to the effective date of the equivalent plan.

(4) Declaration of Intent:

(a) If an employer is unable to submit an equivalent plan application by the dates described in section (3)(a) of this rule, the department is allowing an interim solution under which the employer may submit a signed and certified Declaration of Intent acknowledging and agreeing to the following conditions:

(A) Beginning January 1, 2023, and continuing until the department has approved the equivalent plan application, notwithstanding OAR 471-070-3040, the employer shall:

(i) Deduct employee contributions from the subject wages of each employee in an amount that is equal to 60 percent of the total contribution rate determined in OAR 471-070-3010; or

(ii) If the employer is making the employee contributions in part or in full on the employee's behalf, place in trust for the State of Oregon an amount that is equal to 60 percent of the total contribution rate determined in OAR 471-070-3010.

(B) The employer shall hold any moneys collected or to be contributed on behalf of the employee under this section in trust for the State of Oregon but will not be required to pay employer contributions or remit the withheld employee contributions to the department, unless the department does not receive an equivalent plan application as described in section (3) of this rule or the Declaration of Intent is cancelled as described in this subsection and sections (5) and (6) of this rule. If the equivalent plan application as described in section (3) of this rule is approved by the department, the money collected from the employees may either be returned to the employees or be used for administrative costs as

defined in OAR 471-070-2200 and benefits under an approved equivalent plan and cannot be considered part of an employer's assets for any purpose.

(C) The employer must submit the Declaration of Intent to the department no later than November 30, 2022 to be exempt from paying and remitting contribution payments beginning with the first quarter that starts January 1, 2023.

(D) The employer must submit an equivalent plan application no later than the May 31, 2023, deadline as described in section (3) of this rule.

(b) If an equivalent plan application is not received by the department by May 31, 2023, the Declaration of Intent is cancelled and no longer effective. The employer is then liable for paying and remitting an amount equal to the sum of all unpaid employer contributions that were held in trust for the State of Oregon and all unpaid employee contributions due for periods beginning on or after January 1, 2023, and is subject to penalties and interest as described in section (6) of this rule.

(5) An employer that submitted an equivalent plan application or a Declaration of Intent as described in sections (3) and (4) of this rule, may cancel the request for approval or the Declaration of Intent by contacting the department. The employer is then liable for paying and remitting an amount equal to the sum of all unpaid employer and employee contribution payments due for periods beginning on or after January 1, 2023 and is subject to penalties and interest as described in section (7) of this rule.

(6) The department may cancel the approval of an equivalent plan or Declaration of Intent prior to September 3, 2023, for reasons that include, but are not limited to:

(a) Misuse of employee contributions withheld or retained by the employer;

(b) Failure to adhere to applicable PFML program requirements, including but not limited to OAR 471-070-2220;

(c) Withheld employee contributions that were greater than the employee contributions that would have been charged to the employees under ORS 657B.150;

(d) Failure to respond timely to the department's reasonable inquires for information about the equivalent plan or Declaration of Intent; or

(e) Failure to submit an equivalent plan application or receive approval of the application by the department as described in section (3) of this rule.

(7)(a) As of the date the equivalent plan approval or the Declaration of Intent is canceled or denied, the employer must pay and remit immediately to the department all unpaid contributions due for periods beginning on or after January 1, 2023, and is subject to penalties and interest in accordance with ORS 657B.320 and related administrative rules.

(b) An employer that is required to pay or remit contributions, penalties, and interests, in accordance with this section or sections (4), (5), or (6) of this rule may remit employee contributions previously withheld, that were held in trust for the payment of employee contributions due, but the employer is prohibited from withholding additional contributions from employees retroactively to pay any other amounts due. Employee contributions may not be used to pay penalties and interest imposed on the employer.

(8) An employer that has received approval of an equivalent plan application by one of the deadlines in section (3) of this rule may withhold employee contributions in accordance with ORS 657B.210 beginning January 1, 2023, but the employer will not be required to pay employer contributions or remit employee contributions in accordance with ORS 657B.150, unless the equivalent plan application approval is subsequently canceled as described in sections (5) and (6) of this rule.

(9) Section (3) of this rule is in effect until September 3, 2023.

[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]

STATUTORY/OTHER AUTHORITY: ORS 657B.340

STATUTES/OTHER IMPLEMENTED: ORS 657B.210

AMEND: 471-070-2220

RULE TITLE: Equivalent Plans: Plan Requirements

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Amends the administrative rule to require equivalent plan employers to let employees know how they can contact the department to acquire the eligible employee's average weekly wage amount. Clarifies that generally benefit payments must be provided weekly by a fully insured equivalent plan, unless the benefit payments are paid at the same time as the established paycheck from the employer.

RULE TEXT:

In order for an equivalent plan to be approved by the department, the plan must at a minimum:

- (1) Cover all Oregon employees who have been continuously employed with the employer for at least 30 calendar days, regardless of hours worked, including full-time, part-time, temporary workers hired by the employer, and replacement employees hired to temporarily replace eligible employees during PFMLI leave. Any employees who were eligible for benefits under their previous Oregon employer's equivalent plan, who begin working for a new employer with an approved equivalent plan must be automatically covered for benefits under the equivalent plan offered by the new employer as described in ORS 657B.250;
- (2) Provide family leave as described in ORS 657B.010(17) and applicable administrative rules;
- (3) Provide medical leave as described in ORS 657B.010(19) and applicable administrative rules;
- (4) Provide safe leave as described in ORS 657B.010(21) and applicable administrative rules;
- (5) Allow eligible employees to take family leave, medical leave, or safe leave in a benefit year for periods of time equal to or longer than the duration of leave provided under ORS 657B.020;
- (6) Provide eligible employees weekly benefit amounts equal to or greater than benefits provided under ORS 657B.050;
- (7) Allow family leave, medical leave, or safe leave to be taken in increments or nonconsecutive periods as provided under ORS 657B.090;
- (8) Impose no additional conditions or restrictions on the use of family leave, medical leave, or safe leave beyond those explicitly authorized by ORS chapter 657B and applicable administrative rules;
- (9) Provide that the employee contributions withheld by an equivalent plan shall not be greater than the employee contributions that would be charged to employees under ORS 657B.150 and determined annually under OAR 471-070-3010;
- (10) Ensure employee contributions that are received or retained under an equivalent plan are used solely for equivalent plan expenses, are not considered part of an employer's assets for any purpose, and are held separately from all other employer funds;
- (11) Meet all equivalent plan requirements provided in ORS 657B.210 and applicable administrative rules;
- (12) Provide for decisions on benefit claims, to be in writing, either in hard copy or electronically if the employee has opted for electronic notification. Decisions on benefit claim approvals must include the amount of leave approved, the weekly benefit amount, and a statement indicating how the employee may contact the department to request the eligible employee's average weekly wage amount if the employee believes the benefit amount may be incorrect. Denial decisions must include the reason(s) for denial of benefits along with an explanation of an employee's right to appeal the decision and instructions on how to submit an appeal.
- (13) Provide an appeal process to review benefit decisions when requested by an employee that also requires the employer or administrator to issue a written decision. The employee must have at least 20 calendar days from the date of the written denial to request an appeal with the employer or administrator, if applicable, or as soon as practicable if there is good cause for the delay beyond the 20 calendar days as described in OAR 471-070-2400(7). The employee, and the employer, or administrator have 20 calendar days from the date the appeal is received, or as soon as practicable if there is good cause as described in OAR 471-070-2400(7), to resolve the appeal and for the employer or administrator to issue a written appeal determination letter along with an explanation of the department's dispute resolution process as described in OAR 471-070-2400 if an appeal is denied;

(14) Provide that the equivalent plan employer or administrator must make all reasonable efforts to make a decision on whether to allow the claim and issue the first payment of any benefits to an employee within two weeks after receiving the claim or the start of leave, whichever is later. Subsequent benefit payments must be provided weekly by the fully insured equivalent plan and benefit payments may be paid according to the existing paycheck schedule for employees under an employer administered equivalent plan; and

(15) Ensure a written notice poster for the equivalent plan as described in OAR 471-070-2330, will be given to all eligible employees, at the time of hire and each time the policy or procedure changes, in the language that the employer typically uses to communicate with the employee.

STATUTORY/OTHER AUTHORITY: ORS 657B.340

STATUTES/OTHER IMPLEMENTED: ORS 657B.210

ADOPT: 471-070-2230

RULE TITLE: Equivalent Plans: Reporting Requirements

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Clarifies the requirement for reporting of subject wages on the Oregon Quarterly Tax Report, filing annual aggregate benefit usage reports and annual financial reports if the employee pays contributions to the employer, and requires a 10 calendar day timeframe for the equivalent plan employer to respond to the department's notices.

RULE TEXT:

(1) Employers with an approved equivalent plan are required to file the Oregon Quarterly Tax Report detailing all Paid Family and Medical Leave Insurance (PFMLI) subject wages and the employee count as defined in OAR 471-070-3150 and the Oregon Employee Detail report detailing PFMLI subject wages for each employee in accordance with OAR 471-070-3030.

(2) Employers with an approved equivalent plan must also file annual aggregate benefit usage reports with the department online or in another format approved by the department. The report is due on or before the last day of the month that follows the close of the calendar year or along with the application for reapproval process. The report shall include, but is not limited to, the following:

(a) Number of benefit applications received during the year and the qualifying leave purpose;

(b) Number of benefit applications approved during the year, the qualifying leave purpose, and total amount of leave; and

(c) Number of benefit applications denied during the year and the qualifying purpose and the number of appeals made on denials and the outcome of the appeals.

(3) If the employer assumes only part of the costs of the approved equivalent plan and withholds employee contributions as described in ORS 657B.210(5) the employer must additionally report the aggregate financial information with the department online or in another format approved by the department. That report is due on or before the last day of the month that follows the close of the calendar year or along with the application for reapproval process. The report shall include, but is not limited to, the following:

(a) Total amount of employee contributions withheld during the year;

(b) Total plan expenses paid during the year, including total benefit amounts paid by an employer administered equivalent plan, and total administrative costs, as applicable; and

(c) Balance of employee contributions held in trust at end of the year.

(4) Employers or administrators must respond within 10 calendar days from the date of any notice from the department requesting information about current or prior employees employed by an equivalent plan employer in the base year.

The employer or administrator must respond to the department's notice either online or by another method approved by the department. The notice may request but is not limited to the following:

(a) If a benefit year was established;

(b) The start and end date of the established benefit year;

(c) Total amount of benefits paid in the benefit year;

(d) The qualifying leave purpose; and

(e) The amount of qualifying leave taken in the benefit year.

(5) Employers must provide the reports required under sections (2) and (3) of this rule to the department following withdrawal or termination of an approved equivalent plan within 30 calendar days after the effective date as described in OAR 471-070-2450 and 471-070-2460.

[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]

STATUTORY/OTHER AUTHORITY: ORS 657B.340

STATUTES/OTHER IMPLEMENTED: ORS 657B.210, 657B.250

ADOPT: 471-070-2250

RULE TITLE: Equivalent Plans: Employee Coverage Requirements

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Clarifies the details of when an employee is covered under an equivalent plan.

RULE TEXT:

(1) An employer with an approved equivalent plan is required to cover all employees under the plan as follows:

(a) All employees previously covered under the state plan established under ORS 657B.340, must be covered by the employer's equivalent plan within 30 calendar days of their start date.

(b) All employees previously covered by an employer that had an equivalent plan approved under ORS 657B.210, must be covered by the new employer's equivalent plan immediately as of their start date.

(c) All employees who were not previously covered as described under subsections (a) or (b) of this section, such as employees new to the workforce, relocating from another state, or with a gap in coverage exceeding 30 calendar days must be covered by the employer's equivalent plan within 30 calendar days of their start date.

(2) An employer must specify in their equivalent plan when employees are covered under the plan, which must be in accordance with section (1) of this rule.

(3) An employee described in subsection (1)(a) of this rule, who is not covered under an equivalent plan for any portion of time within the employee's first 30 calendar days, maintains coverage under the state plan established under ORS 657B.340 for that 30 calendar day period.

STATUTORY/OTHER AUTHORITY: ORS 657B.340, ORS 657B.210

STATUTES/OTHER IMPLEMENTED: ORS 657B.210

ADOPT: 471-070-2260

RULE TITLE: Equivalent Plans: Benefit Amounts and Claims

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Clarifies how benefits are calculated for an employer's equivalent plan and what information the equivalent plan may request from the department for the benefit calculation and benefit year.

RULE TEXT:

(1) Employers with an approved equivalent plan are required to provide covered employees with benefits that are equal to or greater than benefits provided under the Oregon Paid Family and Medical Leave Insurance (PFMLI) program, including, but not limited to:

(a) The duration of leave for qualifying purposes as established in ORS 657B.020 and related administrative rules; and
(b) The amount of benefits established in ORS 657B.050 and related administrative rules.

(2) Benefits under an approved equivalent plan shall be administered using the benefit year defined in OR Laws 2022, Chapter 24, Section 1 and related administrative rules.

(3) When an employee applies for benefits under an equivalent plan, the employer or administrator may request consent from the employee to obtain benefit information from the department in order to ensure benefits are provided in accordance with section (1) of this rule.

(a) If consent is given by the employee, the employer or plan administrator may request from the department the benefit information online or by another method approved by the department. The request shall include:

(A) The employee's name;

(B) The employee's Social Security Number or Individual Taxpayer Identification Number;

(C) The employee's contact information consisting at a minimum, the mailing address, telephone number, and email address;

(b) If consent is not given by the employee, the employee may also request the benefit information from the department online or by another method approved by the department.

(4) If the department receives a request for benefit information in accordance with section (3) of this rule, the department will respond to the request for information within 10 calendar days of the date of the request. If the department is not able to provide information for any reason, the department may contact the employee directly to seek the necessary information. This includes, but is not limited to:

(a) Requesting missing subject wage information;

(b) Correcting subject wage information; or

(c) Correcting taxpayer identification number information.

STATUTORY/OTHER AUTHORITY: ORS 657B.340, ORS 657B.210

STATUTES/OTHER IMPLEMENTED: ORS 657B.210

ADOPT: 471-070-2270

RULE TITLE: Equivalent Plans: Proration of Benefit Amounts for Simultaneous Coverage

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Clarifies how the weekly benefit amount will be prorated when an employee is simultaneously covered by more than one equivalent plan or the Paid Leave Oregon program.

RULE TEXT:

(1) An employee is considered to have simultaneous coverage when the employee is covered by more than one employer's equivalent plan at the same time or is covered by the state plan established under ORS 657B.340 and at least one employer with an equivalent plan, at the same time. An employee does not have simultaneous coverage if they work for multiple employers covered by the state plan.

(2) An employee with simultaneous coverage at the start of a leave event shall apply separately under all plans they are covered under and from which they are taking leave by following the respective application guidelines for each plan. An equivalent plan employer may ask an employee whether the employee has additional Paid Family and Medical Leave Insurance (PFMLI) coverage but may not require that the employee provide details on the other employers or the plans. The employer, employee, or administrator may request information from the department as described in OAR 471-070-2260.

(3) Each equivalent plan is required to pay benefit amounts that are equal to or greater than the benefits offered under the state plan as described in OAR 471-070-2260 and ORS 657B.050 and applicable administrative rules. Upon request, the department may provide information to equivalent plan employers or administrators regarding prorated benefit amounts, if the department is aware of simultaneous coverage. Each respective benefit amount shall be prorated by the average number of work days typically worked per week by the claimant for each respective plan rounded to the nearest whole cent.

(a) The state plan shall pay benefits based on the prorated weekly benefit amount and shall further prorate the weekly benefit amount as described in OAR 471-070-1440 for leave taken in work day increments.

(b) The equivalent plan shall pay benefits equal to or greater than the prorated weekly benefit amount and may further prorate the weekly benefit amount when leave is taken in work day increments based on the number of work days of leave taken in the work week.

Example 1: Alondra is employed by two employers. One employer is a state plan employer and the other is an equivalent plan employer. Alondra typically works five days a week for the state plan employer and three days a week for the equivalent plan employer. Alondra is unable to work for both employers due to the need to provide care for a seriously ill parent for the next five weeks. Alondra must apply for benefits separately for the state plan and the equivalent plan. Alondra's weekly benefit amount is \$1,040. Alondra will receive two separate benefit payments each week. The state plan will pay the prorated weekly benefit in the amount of \$650 [(\$1,040 weekly benefit amount divided by 8 total days worked at both jobs) x 5 days worked for the state plan employer]. The equivalent plan employer will pay at least the prorated weekly benefit in the amount of \$390 [(\$1,040 weekly benefit amount divided by 8 total days worked at both jobs) x 3 days worked for the equivalent plan employer].

Example 2: Same typical work schedule and weekly benefit amount as in example 1; however, Alondra is unable to work for the state plan employer one day a week and is unable to work for the equivalent plan employer one day a week (for a total of two days of leave each week) to provide care for a seriously ill parent for the next five weeks. Alondra must apply for benefits separately for the state plan and the equivalent plan. Alondra's weekly benefit amount is still the same at \$1,040 (the state plan prorated weekly benefit amount is \$650 and the equivalent plan prorated weekly benefit amount is at least \$390). Because the leave is taken in work day increments and not an entire work week, once the prorated weekly benefit amount is determined, the state plan will further prorate the state's weekly benefit amount by the number of work days on leave. The state plan will pay weekly benefits in the amount of \$130 [(\$650 state plan

portion of the weekly benefit amount divided by 5 work days) x 1 day on leave in the work week)]. The equivalent plan employer may choose to further prorate the weekly benefit amount by the number of work days on leave [(\$390 equivalent plan portion of the weekly benefit amount divided by 3 work days) x 1 day on leave in the work week) for a minimum weekly benefit amount of \$130].

(4) The department shall calculate prorated benefit amounts when:

(a) The department receives an application for an employee that provides current employment information from a state plan employer(s) and one or more equivalent plan employer(s). The department shall verify coverage under the equivalent plan as described in OAR 471-070-2230 to determine a prorated benefit amount for benefits offered under the state plan.

(b) The department receives a request from an equivalent plan employer or administrator for an employee's benefit information in accordance with OAR 471-070-2260. The department shall verify whether the employee has coverage under more than one equivalent plan and, if covered, include the prorated benefit amounts to the employer. The department will provide prorated benefit amounts to any other equivalent plan employer or administrator that covers the employee also.

(5) Should the department receive information about changes in simultaneous coverage after information is provided to an equivalent plan employer or administrator in accordance with OAR 471-070-2260 and under this rule, the department shall calculate or re-calculate the proration, as applicable, and notify all employers, administrators, or employees of the change. Any overpayments made by the Oregon PFMLI program shall be recovered in accordance with OAR 471-070-1510.

STATUTORY/OTHER AUTHORITY: ORS 657B.340, ORS 657B.210

STATUTES/OTHER IMPLEMENTED: ORS 657B.210

ADOPT: 471-070-2330

RULE TITLE: Equivalent Plans: Written Notice Poster to Employees of Rights and Duties

NOTICE FILED DATE: 06/29/2022

RULE SUMMARY: Clarifies an equivalent plan employer's responsibility to include certain information in the written notice poster to employees and describes when the written notice poster must be displayed by the employer and in what language.

RULE TEXT:

(1) The director shall make available to all employers offering an approved equivalent plan, a Paid Family and Medical Leave Insurance (PFMLI) notice poster template that meets the requirements under this rule.

(2) An employer that offers a plan approved under ORS 657B.210 shall provide a written notice poster to employees that includes:

(a) Information about benefits available under the approved plan, including the duration of leave;

(b) The process for filing a claim to receive benefits under the plan, including any employee notice requirements and penalties established by the employer in accordance with ORS 657B.040, if applicable;

(c) The process for an employee to appeal to the employer or administrator based on a decision made by their employer or administrator as described in OAR 471-070-2220(13);

(d) The process for employee deductions used to finance the cost of the plan, if any;

(e) An employee's right to dispute a benefit determination after the appeal with the employer or administrator in the manner determined by the director under ORS 657B.420 and OAR 471-070-2400;

(f) A statement that discrimination and retaliatory personnel actions against an employee for inquiring about the family and medical leave insurance program established under ORS 657B.340, giving notification of leave under the program, taking leave under the program or claiming family and medical leave insurance benefits are prohibited;

(g) The right to job protection and benefits continuation under ORS 657B.060;

(h) The right of an employee to bring a civil action or to file a complaint for violation of ORS 657B.060 or 657B.070; and

(i) A statement that any health information related to family leave, medical leave or safe leave provided to an employer or plan administrator by an employee is confidential and may not be released without the permission of the employee unless state or federal law or a court order permits or requires disclosure.

(3)(a) Each employer must display the notice poster in each of the employer's buildings or worksites in an area that is accessible to and regularly frequented by employees; and

(b) An employer with employee(s) assigned to remote work must additionally provide, by hand delivery, regular mail, or through an electronic delivery method, a copy of the notice poster to each employee assigned to remote work. The notice poster must be delivered or sent to each employee assigned to remote work upon the employee's hire or assignment to remote work.

(4)(a) For employers that have employee(s) working in buildings or worksites, the notice poster displayed under (3)(a) of this rule by the employer must be displayed in the language the employer typically uses to communicate with the employee. If the employer uses more than one language to communicate with employees assigned to a building or worksite, then the employer must display copies of the notice poster in each of the languages that the employer would typically use to communicate with the employees assigned to that building or worksite; and

(b) For employers that have employee(s) assigned to remote work, the notice poster provided under (3)(b) of this rule by the employer must be provided in the language the employer typically uses to communicate with each employee assigned to remote work.

(5) An employer with an equivalent plan that does not provide coverage on the employee's first day of employment must additionally provide written notice poster to newly hired employees as described in OAR 471-070-1300.

[Publications: Contact the Oregon Employment Department for information about how to obtain a copy of the publication referred to or incorporated by reference in this rule.]

STATUTORY/OTHER AUTHORITY: ORS 657B.340

STATUTES/OTHER IMPLEMENTED: ORS 657B.210, 657B.070