

Employer-Administered Plan Minimum Requirements

As defined in OAR 471-070-2200, an employer-administered equivalent plan offers paid leave benefits to employees that are equal to or greater than the state plan benefits. Unlike a fully insured equivalent plan, the employer assumes all financial risk associated with the benefits and administration of an employer-administered equivalent plan. This is true when either the employer or a third party administers the plan.

This document is an additional resource for employers to help them better understand the minimum requirements for an employer-administered equivalent plan. This list of plan requirements is not complete. Employers or administrators are responsible for reviewing all Paid Leave Oregon laws under [Oregon Revised Statute \(ORS\) Chapter 657B](#) and [Oregon Administrative Rules \(OAR\) Chapter 471, Division 70](#) and adding any company-specific language, policies, or procedures related to their equivalent plans.

Plans and policies that do not meet all requirements will result in delays in application processing. We may also deny your application.

Sections	References	Description of Plan Requirement
Employee coverage requirements	ORS 657B.210; ORS 657B.250; OAR 471-070-2220; OAR 471-070-2250	<p>A plan must state when employees begin coverage under the plan.</p> <p>Immediate coverage applies to:</p> <ul style="list-style-type: none"> • Employees previously eligible for benefits under their last Oregon employer's equivalent plan <p>Coverage within (30) days applies to employees:</p> <ul style="list-style-type: none"> • Previously eligible under the state plan • New to the workforce • Relocating from another state • With a gap in coverage exceeding (30) days <p>Other considerations:</p> <ul style="list-style-type: none"> • The plan must cover employees who have been in continuous employment with the employer for at least 30 calendar days. This includes full-time, part-time, and temporary employees as well as employees the employer hired to replace eligible employees taking leave, regardless of the number of hours an employee works.
Types of leave	ORS 657B.010 ORS 659A.272; OAR 471-070-2220	<p>Plan provides:</p> <ul style="list-style-type: none"> • Family leave - To care for and bond with a child during the first year after the child's birth, adoption, or their placement in the employee's home through foster care; to complete activities necessary for a child's adoption or foster care placement; or to care for a family member with a serious health condition. • Medical leave - For an employee's own serious health condition. • Safe leave - As described in ORS 659A.272 (See definitions table)
Types of leave - consecutive or intermittent	ORS 657B.090; OAR 471-070-1420 OAR 471-070-2220	<p>Plan allows employees to take family leave, medical leave, or safe leave on a consecutive or intermittent schedule. Employees may claim benefits for leave they take in increments equal to one workday or one workweek.</p>
Length of Leave	ORS 657B.020	<p>Plan must allow covered individuals to qualify for a minimum of 12 weeks, in any combination, for family leave, medical leave, and safe leave within a benefit year.</p> <p>Plans must also allow for an additional 2 weeks of benefits for limitations related to pregnancy, childbirth or a related medical condition, including but not limited to lactation, for a total amount of at least 14 weeks.</p>

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Additional restrictions prohibited	OAR 471-070-2220	Plan doesn't impose 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.
Solvency Requirements	OAR 471-070-2280	An employer must provide solvency documentation with their initial application, reapproval, or substantive amendment. Proof of solvency must be in an amount equal to the contributions due or estimated to be due from the employee and employer for three calendar quarters. Solvency documentation may include either proof of sufficient assets, a bond, or an irrevocable letter of credit with the Oregon Employment Department (OED) named as the payee or beneficiary, issued by an insured institution, as defined in ORS 706.008.
Employer costs	ORS 657B.210 OAR 471-070-2200 OAR 471-070-2220	An employer may assume all or a part of the costs related to an approved plan. Employers assume all financial risk associated with the benefits and administration of the equivalent plan. This is true when either the employer or a third party administers the plan.
Employee contributions	ORS 657B.150; ORS 657B.210; OAR 471-070-2220; OAR 471-070-3010	<p>The plan or policy must specify if the employer will withhold contributions from employees' wages. Employers cannot withhold contributions from employees in an amount greater than the contributions that the state-offered plan allows to be withheld.</p> <p>The OED director sets the contribution rate and maximum wage amount annually. Employee contributions can't exceed 60% of the contribution rate.</p> <p>Note: Contributions employers withhold for an equivalent plan must be used for that purpose, will not be considered assets, and must be maintained separately from other employer-held funds.</p>

Sections	References	Description of Plan Requirement
Decision requirements	OAR 471-070-2220	<p>Plan provides decisions on benefit claims in writing, either in hard copy or electronically if the employee has chosen electronic notification.</p> <p>Decisions include:</p> <ul style="list-style-type: none"> The approved amount of leave, the weekly benefit amount, and information on how to contact OED if the employee believes that their weekly benefit amount is incorrect. <p>OR</p> <ul style="list-style-type: none"> The reason(s) for a denial of benefits along with an explanation of an employee's right to appeal the decision. <p>All decisions include instructions about how to file an appeal.</p>
Appeals	ORS 657B.210; ORS 657B.420 OAR 471-070-2220; OAR 471-070-2400	<p>Plan provides an appeal process to review benefit decisions when an employee requests a review. The employer or administrator must issue a written decision.</p> <ul style="list-style-type: none"> Employees have at least 60 calendar days to request an appeal or as soon as feasible if there is good cause. Employer or administrator will have 20 calendar days, or as soon as feasible if there is good cause, from the date they receive the appeal to issue a written appeal determination letter. If the employer or administrator denies an appeal, they must also include an explanation of OED's dispute resolution process.
Benefit payments	OAR 471-070-2220	<p>The employer or administrator makes all reasonable efforts to approve 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.</p> <p>The employer may pay benefit payments according to the existing paycheck schedule for employees under an employer-administered equivalent plan.</p>

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Written notice (Model Notice) poster	ORS 657B.210; OAR 471-070-2220 OAR 471-070-2330	<p>Employers must provide notice to employees about coverage provided under the equivalent plan as described in ORS 657B.210 (1)(c). Employers must give notice 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.</p> <p>The notice includes:</p> <ul style="list-style-type: none"> • Information about benefits available under the approved plan, including the length of leave. • How to file a claim to receive benefits under the plan, including any employee notice requirements and penalties established by employers as allowed under ORS 657B.040. • Information on employee contributions used to fund the plan, if any. • The appeal process for an employee based on an employer or administrator's decision. • An employee's right to dispute the outcome of an appeal to the OED director under ORS 657B.420 and OAR 471-070-2400. • The right to job protections and continuation of health benefits, if applicable. • A statement that discrimination and retaliatory personnel actions against an employee is prohibited under ORS 657B.340. This includes retaliation related to asking about the paid leave program, giving notification of leave under the program, taking leave under the program or claiming family, safe and medical leave benefits. • The employee's right to bring a civil action or to file a complaint for violation of ORS 657B.060 or 657B.070. • A statement that any health information, related to their requested leave, that an employee gives to an employer or administrator is confidential. The employer or administrator may not release this information without the employee's permission unless state or federal law or a court order allows or requires disclosure.

DEFINITIONS

Definitions included in this document are not all-inclusive and employers are responsible for making sure that definitions included in their equivalent plans are the same as those defined in rule and law for Paid Leave Oregon.

Word or phrase	Related rule or law	Definition
Administrative costs	OAR 471-070-2200	<p>The costs an employer incurred 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.</p> <p>Administrative costs don't include rent, utilities, office supplies or equipment, executive wages, cost of benefits, or other costs not immediately related to administering the equivalent plan.</p>
Administrator	OAR 471-070-2200	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.
Benefit amounts	ORS 657B.050	<ul style="list-style-type: none"> • If the employee's average weekly wage is equal to or less than 65% of the state average weekly wage, the employee's weekly benefit amount is 100% of the employee's average weekly wage. • If the employee's average weekly wage is greater than 65% of the average weekly wage, the employee's weekly benefit amount is the sum of: <ul style="list-style-type: none"> • 65% of the average weekly wage plus • 50% of the employee's average weekly wage that is greater than 65% of the average weekly wage, up to 120% of the state average weekly wage
Benefit year	ORS 657B.010 OAR 471-070-1000	A period of 52 consecutive weeks starting the Sunday before the employee begins family, medical, or safe leave. The benefit year is 53 weeks if a 52-week benefit year results in an overlap of any quarter of the base year for a previously filed valid claim. A claimant can have only one valid benefit year at a time.

Word or phrase	Related rule or law	Definition
Child	ORS 657B.010	<ul style="list-style-type: none"> • A biological child, adopted child, stepchild, or foster child of a covered person or of the covered person's spouse or domestic partner. • A person who is or was a legal ward of a covered person or of the covered person's spouse or domestic partner. • A person who is or was in a relationship of in loco parentis with a covered individual or with the covered individual's spouse or domestic partner. In loco parentis means someone who is acting as a parent.
Eligible employee	ORS 657B.010	<p>An employee who has earned at least \$1,000 in wages during the base year (the first four of the last five completed calendar quarters before the start date of the employee's benefit year).</p> <p>OR</p> <p>If an employee has not earned at least \$1,000 in wages during the base year, an employee is eligible if they have earned at least \$1,000 in wages during the alternate base year (the four most recent completed calendar quarters before the employee's benefit year).</p>
Equivalent plan	ORS 657B.210 OAR 471-070-2200	An employer-offered paid leave plan approved by OED that provides benefits that are equal to or greater than benefits provided by Paid Leave Oregon established under ORS 657B.340.
Family leave	ORS 657B.010	<p>Leave from work taken by a covered individual:</p> <ul style="list-style-type: none"> • To care for and bond with a child during the first year after the child's birth or during the first year after the placement of the child through foster care or adoption • To complete activities necessary for a child's adoption or foster care placement • To care for a family member with a serious health condition

Word or phrase	Related rule or law	Definition
Family member	ORS 657B.010	<ul style="list-style-type: none"> • The spouse of a covered person • A child of a covered person or the child's spouse or domestic partner • A parent of a covered person or the parent's spouse or domestic partner • A sibling or stepsibling of a covered person or the sibling's or stepsibling's spouse or domestic partner • A grandparent of a covered person or the grandparent's spouse or domestic partner • A grandchild of a covered person or the grandchild's spouse or domestic partner • The domestic partner of a covered person • Any person related by blood or affinity whose close association with a covered person is the equivalent of a family relationship. The meaning of affinity is defined in OAR 471-070-1000(1).
Safe leave	ORS 659A.272	<ul style="list-style-type: none"> • To seek legal or law enforcement assistance to protect you, your minor child's, or your dependent adult's health and safety. This includes preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault, bias crimes, or stalking. • To seek medical treatment for, or to recover from, injuries caused by domestic violence, sexual assault, harassment or stalking of or the commission of a bias crime against the eligible employee or the employee's minor child or dependent adult. • To get or help get counseling for a minor child or dependent adult from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault, bias crime, or stalking. • To get services from a victim services provider for the eligible employee or the employee's minor child or dependent adult. • To relocate or take steps to make an existing home secure to protect the eligible employee's, the employee's minor child, or dependent adult's health and safety.

Word or phrase	Related rule or law	Definition
Serious health condition	ORS 657B.010 OAR 471-070-1000	<ul style="list-style-type: none"> • An illness, injury, impairment, physical, or mental condition that requires inpatient care in a hospital, hospice, or residential medical care facility. • An illness, disease or condition that, in the medical judgment of the treating health care provider, poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care. • Any period of disability due to pregnancy or absence for prenatal care. • Any period of absence for the donation of a body part, organ or tissue, including pre-operative or diagnostic services, surgery, post-operative treatment and recovery.