

Employer Administered Plan Minimum Requirements

As defined in OAR 471-070-2220, an employer administered equivalent plan offers paid leave benefits to their employees that are equal to or greater than the state plan. The employer assumes all financial risk associated with the benefits and administration of the equivalent plan, whether administered by the employer or a third party.

This document is intended to be used as an additional resource for employers to better understand the minimum requirements for an equivalent plan. The list of plan requirements is not complete. Employers or administrators are responsible for reviewing all Paid Leave Oregon laws and rules 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 and risk potential application denial.

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 their 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 via 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"> • Employees who have been in continuous employment with the employer for at least 30 calendar days must also be covered. This includes full-time, part-time, and temporary employees as well as employees hired to replace eligible employees taking leave, regardless of hours worked.
Leave Types	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 or during the first year after the placement of the child through foster care or adoption; 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)
Leave Types- Consecutive or Incremental Durations	ORS 657B.090; OAR 471-070-2220	<p>Plan allows family leave, medical leave, or safe leave to be taken in increments or non-consecutive periods. Benefits may be claimed for leave that is taken in increments equal to one work day or one work week.</p>
Equivalent Plans: Benefit Amounts and Claims	OAR 471-070-2260	<p>Plan provides eligible employees weekly benefit amounts equal to or greater than benefits provided under ORS 657B.050.</p> <p>Including, but not limited to:</p> <ul style="list-style-type: none"> • The duration of leave for qualifying purposes • The amount of benefits • Benefits under an approved equivalent plan shall be administered using the benefit year

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Additional Restrictions Prohibited	OAR 471-070-2220	Plan does not 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.
Employer Costs	ORS 657B.210	<p>An employer may assume all or a part of the costs related to a plan approved under this section. If contributions are collected from employees, they will not be greater than those under the state plan.</p> <p>Note: Contributions withheld for an equivalent plan will be used for that purpose, are not considered assets, and will be maintained separately from other employer-held funds.</p>
Employee Contributions	ORS 657B.150; ORS 657B.210; OAR 471-070-2220; OAR 471-070-3010	<p>The plan/policy must specify if contributions will be withheld from employees' wages.</p> <p>The contribution rate and maximum wage amount for 2023 is 1% of each employee's wages up to \$132,900. Employee contributions must be equal to or less than 60% of the rate.</p>
Decision Requirements	OAR 471-070-2220	<p>Plan provides for decisions on benefit claims to be in writing, either in hard copy or electronically if the employee has opted for electronic notification.</p> <p>Decisions include:</p> <ul style="list-style-type: none"> • The amount of leave approved and the weekly benefit amount <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 and instructions about how to submit an appeal.

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Appeals	OAR 471-070-2220; OAR 471-070-2400	<p>Plan provides an appeal process to review benefit decisions when requested by an employee. The employer or administrator are required to issue a written decision.</p> <ul style="list-style-type: none"> • Employees have at least 20 days to request an appeal or as soon as practicable if there is good cause. • The parties involved then have 20 days from the date the appeal is received, or as soon as practicable if there is good cause, to resolve the appeal • Employer or administrator will have 20 days from the date of the appeal is received to issue a written appeal determination letter along with an explanation of the department’s dispute resolution process if an appeal is denied
Benefit Payments	OAR 471-070-2220	<p>The equivalent plan employer makes all reasonable efforts 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.</p> <p>Subsequent benefit payments may be paid according to the existing paycheck schedule for employees under an employer administered equivalent plan.</p>

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<p>Written Notice (Model Notice) Poster</p>	<p>ORS 657B.210; OAR 471-070-2220</p>	<p>Employers must provide notice to employees about coverage provided under the equivalent plan as described in ORS 657B.210 (11)(c). Notice must 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.</p> <p>The notice includes:</p> <ul style="list-style-type: none"> • Information about benefits available under the approved plan, including the duration of leave; • How to file a claim to receive benefits under the plan; • Information on employee contributions used to fund the plan, if any; • An employee’s right to dispute a benefit decision determined by the director under ORS 657B.420; • The right to job protections and continuation of health benefits, if applicable; and • 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 insurance benefits.

DEFINITIONS

Definitions included in this document are not all inclusive and employers are responsible for ensuring that definitions included in their Equivalent Plans are the same as those defined in rule and law for Paid Leave Oregon.

Administrative Costs	OAR 471-070-2200	<p>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.</p> <p>Administrative costs do not 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 percent of the state average weekly wage, the employee's weekly benefit amount is 100 percent of the employee's average weekly wage. • If the employee's average weekly wage is greater than 65 percent of the average weekly wage, the employee's weekly benefit amount is the sum of: <ul style="list-style-type: none"> » 65 percent of the average weekly wage, and » 50 percent of the employee's average weekly wage that is greater than 65 percent of the average weekly wage
Benefit Year	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.
Child	ORS 657B.010	<ul style="list-style-type: none"> • A biological child, adopted child, stepchild or foster child of a covered individual or of the covered individual's spouse or domestic partner; or • A person who is or was a legal ward of a covered individual or of the covered individual's spouse or domestic partner; or • A person who is or was in a guardian relationship with a covered individual or with the covered individual's spouse or domestic partner.

Duration of Leave	ORS 657B.020	An equivalent plan must provide at least 12 weeks of paid leave per benefit year in any combination of family, medical, and safe leave. The plan must also provide an additional two weeks of paid leave for limitations related to pregnancy.
Eligible Employee	ORS 657B.010	An employee who has earned at least \$1,000 in wages during the base year (the first four of the previous five completed quarters); or 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 most recent four quarters); and An employee who submits an application for paid leave benefits under ORS 657B.015. .
Equivalent Plan	OAR 471-070-2200	A Paid Family and Medical Leave Insurance (PFMLI) plan approved by the Employment Department that provides benefits that are equal to or greater than benefits provided by Paid Leave Oregon established under ORS 657B.340.
Family Member	OAR 471-070-1000	<ul style="list-style-type: none"> • The spouse of a covered individual • A child of a covered individual or the child’s spouse or domestic partner • A parent of a covered individual or the parent’s spouse or domestic partner • A sibling or step-sibling of a covered individual or the sibling’s or step-sibling’s spouse or domestic partner • A grandparent of a covered individual or the grandparent’s spouse or domestic partner • A grandchild of a covered individual or the grandchild’s spouse or domestic partner • The domestic partner of a covered individual • Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship
Safe Leave	ORS 659A.272	<ul style="list-style-type: none"> • To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee’s minor child or dependent. This includes preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault or stalking.

Safe Leave	ORS 659A.272	<ul style="list-style-type: none"> • To seek medical treatment for, or to recover from, injuries caused by domestic violence, sexual assault, harassment or stalking of the eligible employee or the employee's minor child or dependent • To obtain, or assist a minor child or dependent in obtaining, counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking. • To obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent. • To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee's minor child or dependent.
Serious Health Condition	ORS 659A.150	<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.
Substantial Reduction in Personnel	OAR 471-070-2200 ORS 657B.260	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.
Successor in Interest	OAR 471-070-2200	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.