

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

### Underwriting guidelines for Washington groups (Clark and Cowlitz counties) 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 in Washington is any person, firm, corporation, partnership, association, or political subdivision that is actively engaged in business that employed an average of at least one but no more than 50 employees during the previous calendar year and that employed at least one employee on the first day of the plan year. As noted in the paragraph below, the employer must employ at least one common law employee (generally a person who performs services for a firm under an employer-employee relationship but is neither a partner in the firm nor its sole proprietor or their spouse).
- In determining the number of employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of taxation by the state of Washington shall be considered an employer.
- On November 9, 2015, the Washington State Office of the Insurance Commissioner (OIC) provided the following notification to carriers: "The OIC has determined that the ACA 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 48.43.005(33) that permits sole proprietors with no employees and self-employed individuals to purchase small group coverage. This provision is inconsistent with the ERISA 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."

**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 Clark County or Cowlitz County in the state of Washington, except that for the adult-only dental PPO product, the employer group may be located anywhere in Washington (excluding Columbia, Ferry, Garfield, Skamania, and Wahkiakum counties).

**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 of one or more employees 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.

## GROUP RESPONSIBILITIES

**Employer contribution:** The employer must contribute at least 50% of the employee-only monthly premium. For defined contribution plans, the employer must contribute at least 50% of the aggregate employee-only 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 Kaiser Foundation Health Plan of the Northwest (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](http://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.**

**New employee waiting period by employment class:** 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.

**Hourly requirement:** Groups determine the minimum hourly work requirement for eligibility. The requirement must be applied consistently for similarly situated employees.

**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 or exclude certain classes from coverage. 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](http://irs.gov)) for more information (reviewed May 2019).

**Medical plan bundling:** Groups may select no more than one Added Choice plan and no more than 3 plans in total (except when adding an additional out-of-area plan for qualified groups).

**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.

## PARTICIPATION REQUIREMENTS

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

**Valid waivers:** KFHPNW will not consider employees or dependents who have similar existing coverage when determining whether the applicable percentage of participation is met. This includes similar existing coverage obtained through the individual market.

Employers are required to offer coverage to all eligible employees and track the reason employees decline coverage on the Washington Employer Attestation Declination of Coverage form. Alternatively, employers may obtain a signed Washington 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 the adult-only plan. Adult and pediatric dental PPO plans are available to businesses located throughout most of the state of Washington; the business does not have to be located within our service area. (Exclusions include Columbia, Ferry, Garfield, Skamania, and Wahkiakum counties.)

**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 or comparable insurance must enroll in one of the plans offered by the group.

## EMPLOYEE AND DEPENDENT ELIGIBILITY

**Hourly requirement:** 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:** 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; and a partner and spouse do not count as employees in determining market size even if they are also common law/W-2 employees. 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 (60 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. If the group plan includes coverage for children of insured employees, children of state registered domestic partners are covered on the same basis.

Employers may choose to provide coverage for non-state registered domestic partners. If this eligibility is elected and children of insured employees are covered under the group plan, children of non-state registered domestic partners are covered on the same basis.

**Dependent enrollment:** In order for dependents to enroll, the employee must enroll. Exceptions apply 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. Exceptions apply for pediatric dental plans and for some COBRA circumstances.

**Dependent age limit:** If the group elects to cover dependents of the employee, 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:** Adult and pediatric dental-only coverage, without the purchase of medical coverage, is available to groups of 1 to 50 employees and a minimum of 2 members enrolled.

**Plan selection/bundling:** Groups may select a stand-alone Traditional (non-PPO) or PPO adult-only dental plan, or they may select Traditional (non-PPO) and PPO adult-only plans together as a bundle.

**Offering requirement:** If dental coverage is offered to any part of a group, it must be offered to the entire group, except when the employer excludes certain classes of employees from coverage.

**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 a PPO Plus® plan for employees who live and work outside of the KPNW service area. This PPO Plus plan may not be richer than plans offered to employees inside the service area.

**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 Washington.

**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 Washington. 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.*

