

# Here's all the nitty gritty.

## Oscar for Business Underwriting Guidelines

Health plans for California small groups with 1-100 employees

Effective from April 1, 2018

# Hi, we're Oscar for Business.

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**We like simple.** We also believe being very clear about how we do things saves time and hassle down the road. So we simplified our underwriting guidelines to help you understand which clients may be eligible for Oscar plans. Read on to get familiar with our policies and applicable state and federal laws.

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High level, here's what you need to know.

- 01.** Oscar for Business covers groups with 1-100 employees.
- 02.** A group must be licensed or authorized to conduct business in California.
- 03.** A group must employ eligible individuals who live, work, or reside in Oscar's California service area.
- 04.** A group must meet relevant contribution and participation requirements.

Once a group has applied for coverage, Oscar's Eligibility Team will make the final decision to accept or decline the group for coverage, specify terms of coverage, or grant requests for changes, subject to Oscar's policies and applicable law. Agents or General Agents aren't authorized to bind or guarantee coverage, premium rates, or effective dates. Groups should maintain their existing coverage during the application process.

This document does not include all the policies and guidelines that may apply, and we may change these policies in the future without notice, as permitted by law. You can find the most up-to-date underwriting guidelines at [hioscar.com/brokers/LA](https://hioscar.com/brokers/LA).

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## Group Eligibility

A group is eligible for small group coverage if it meets the “small employer” criteria as defined by the California and federal Patient Protection and Affordable Care Act (ACA) , and meets the following requirements:

01. The group employed between one (1) and one hundred (100) full-time equivalent (FTE) employees (the majority of whom were employed within California) for at least 50% of its working days during the preceding calendar quarter or the preceding calendar year.
02. The employer maintains business licensure and/or appropriate state filings allowing the company to actively conduct business in the state of California.
03. The employer employs eligible individuals who live, work or reside in Oscar’s California service area, which includes Orange County (Region 18) and Los Angeles County (Region 15 and 16).

These groups are **not** eligible for coverage:

- a. Groups formed with the sole purpose of obtaining health insurance
- b. Associations, multiple employer trusts, union trust plans or Taft Hartley groups
- c. Groups that do not have at least one W-2 employee, e.g.:
  - Sole proprietors with no W-2 employees
  - Owner-only groups with no W-2 employees
  - Two-person groups comprised of an owner and his/her spouse or legal domestic partner
- d. Groups that have been in existence for less than 4 weeks
- e. Employers with less than 51% of employees working in the state of California.
- f. Carve-out groups, except for union/non-union carve-outs:
  - For small employer groups with union and non-union employees, where the union members receive health benefits through a collective bargaining agreement, Oscar will consider the non-union employees eligible for coverage, provided;
    - The employer provides a copy of the collective bargaining agreement to prove the employer provides coverage and contributes to the trust plan.
    - The statement of ERISA Rights is provided from the union trust fund (summary plan description)
    - Union members who are not eligible to enroll in the Small Business policy, are not counted for purposes of determining group size or participation requirements. Participation requirements are based on the employees who are permitted to enroll with Oscar.

## Group Size

Group size is a major factor in determining if a group is eligible for small group coverage. The group must have between one and 100 full-time and/or FTE employees for 50% of the preceding calendar quarter or the preceding calendar year to qualify. Changes in group size throughout the year do not impact a group's eligibility. Here are some FAQ's about small group eligibility:

### What if the group has part-time employees?

- The total group size is the number of full-time employees plus the number of FTE part-time employees. Employees are considered part-time if they work less than 30 hours per week. To calculate a group's FTEs from part-time employees, add up the part-time hours worked during the month. Divide the total by 120 and round down to the nearest whole number.
  - For example if you have four part time employees who each work 20 hours per week, there are 320 part-time hours worked per month. Divided by 120, these four part time employees count as two FTEs. This total may include employees who are not eligible to participate in a plan given the number of hours they work each week.

### What about employees that live outside of the coverage area?

- Regardless of where an employee may reside, they must be included in the FTE calculation.

### What about contractors (1099s), seasonal or past employees enrolled in COBRA/Cal-COBRA?

- Contractors and seasonal employees who worked less than 120 days during the average year should not be included when determining group size.
- Past employees currently enrolled in COBRA/Cal-COBRA should not be included when determining group size.

### What if the group is a new company?

- Groups must be in existence for at least 4 weeks prior to enrolling Oscar for Business coverage. The group size will be based on the number of employees during that time.

### What about affiliated companies?

- In determining group size, if a company has an affiliated company with which it is eligible to file a joint state tax return or is treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986, the two affiliated companies will be considered one employer and the affiliate's employees will be counted when determining if the group is eligible to enroll in small group coverage.
- Affiliated companies under common control may enroll together if they are eligible to file a combined state tax return and the entire group meets all eligibility requirements.

**What about Professional Employer Organization (PEO) Groups?**

- Employees associated with a PEO are employed by the group listing the employees on its DE 9C. Employers who are leasing or sharing employees from a PEO may not cover these employees if the employees do not appear on the group's tax documents.
- If a group originally using the services of a PEO later decides to employ former PEO employees full-time, they must meet the employee eligibility requirements. The former PEO employees must appear on the group's tax documents.

**What about spinoffs?**

- A breakaway or spin-off business is a company that is newly formed from employees of an existing company to become a distinct and separate entity. Employees forming this company are no longer employed by the original company and may apply for coverage under a new contract. A breakaway employer must meet all the qualifications for a small group in order to be accepted for Oscar coverage.
  - If the breakaway company is still affiliated or can file a combined tax return with the former group, then the companies are treated as a single company. The group is still considered to be a single company even if the companies choose to file separate tax returns.
  - For all existing Oscar breakaways, the original employer remains with Oscar on the existing contract, while the breakaway employer receives a new Oscar for Business ID.

## Required Documents

To apply for coverage for a group, Oscar requires all of the following:

- Employer application (online or on paper)
- Applications or waivers for **all** employees, including existing COBRA/Cal-COBRA enrollees
- Group / owner eligibility documentation (any one of the following):
  - Current/active business license
  - Fictitious Business Name statement
  - Statement of Information
  - Articles of Incorporation
- The most recent DE 9C or 4 weeks of payroll
- Tax documents (listed on the following page)

In order to verify eligibility, Oscar's underwriting team may request additional documentation above and beyond what is listed on the following page.

Keep in mind that the group's coverage will not begin until the application has been approved by Oscar's Eligibility Team and payment has been received. Oscar may request additional documentation, including payroll records and employee wage and tax filings, to determine a group's eligibility. Check payments may take up to 10 days to process.

Please note: Any eligible employee or dependent enrolled in Oscar small group health coverage may not also be enrolled under an individual policy. The applicant must elect one or the other policy to avoid duplication of coverage.

## Additional Required Enrollment Documents by Group Type

Type of business	Documents required
Sole Proprietorship*	One of the following: <ul style="list-style-type: none"> <li>• IRS Schedule C and 1040 Form (If owner is not listed on DE9C)</li> <li>• IRS Schedule C and 1040 Form</li> <li>• IRS Schedule F and 1040 Form for Farms</li> </ul>
Corporation	California Secretary of State active web confirmation, and one of the following: <ul style="list-style-type: none"> <li>• Owner Affidavit</li> <li>• If owners not listed on DE9C, IRS Schedule K-1 (Form 1120-S) - include all K-1's totaling 100% ownership, IRS Form 1120 (pages 1-2), IRS Form 1125-E or IRS Schedule G or a W-2</li> <li>• Additional proof of income for owner may be required if tax filings are not available due to length of time in business.</li> </ul> Corporations established out of state will also need to provide a Certificate of Qualification or Statement by Foreign Corporation in addition to the above documentation.
Partnership / Limited Liability Partnership (LLP)	If owners not listed on DE9C, recent IRS Schedule K-1 (Form 1065) - include all K-1's totaling 100% ownership, or Partnership Agreement & Tax ID Appointment Letter or W-2  Partnerships or LLPS established out of state will also need to provide a Certificate of Qualification or Statement by Foreign Partnership in addition to the above documentation.
Limited Liability Company (LLC)	Statement of Organization with Operating Agreement  If owners not listed on DE9C, recent K-1 or other applicable tax filing document or W-2
Non-Profit Company	Most recent Quarterly Federal Tax Return (IRS Form 941), current payroll report, and one of the following: <ul style="list-style-type: none"> <li>• IRS letter 501c3</li> <li>• IRS application for exempt status</li> <li>• California Secretary of State active web confirmation</li> <li>• National Federal Credit Union active web confirmation</li> </ul>

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\*One life sole proprietors are not eligible. There must be one common law employee who is neither an owner, nor the owner's spouse or domestic partner.

## Additional Required Enrollment Documents by Group Type

Type of business	Documents required
Group who filed a consolidated tax return as an affiliated group	IRS Form 851, or a letter from a CPA
Churches	IRS Form 941 Payroll records from the prior 4 weeks
Seasonal industries	Prior four DE 9C reports
Spinoffs	4 weeks of payroll or DE 9C, and relevant employer documentation listed above depending on type of group

Type of enrollee	Tax documents required
New Hires not appearing on the most recent DE9C	IRS Form W-2, and most recent two-week payroll report and dates of hire for all New Hire employees
COBRA /Cal-COBRA Coverage Enrollees	Most recent DE 9C Form on which employees appeared, or bill from group's prior carrier listing COBRA/Cal-COBRA enrollees

## Eligibility

### Employee

An employee is eligible to participate in the small group plan if:

01. The employee lives, works, or resides in Oscar's California service area **and**
02. The employee meets the hourly requirements for eligibility.

An eligible employee is any permanent employee who is actively engaged on a full-time basis in the conduct of the business of the small employer with a normal workweek of at least 30 hours, at the small employer's regular places of business, who has met any statutorily authorized applicable waiting period requirements.

Officers, Sole proprietors or partners of a partnership are eligible employees, if they are actively engaged on a full-time basis in the small employer's group, receive a W-2 and are included as employees under a health care plan contract of a small employer.

Permanent employees who work at least 20 hours but not more than 29 hours are deemed to be eligible employees if all five of the following apply:

- They otherwise meet the definition of an eligible employee except for the number of hours worked.
- The employer offers such employees health coverage under a health benefit plan.
- All similarly situated individuals are offered coverage under the health benefit plan.
- The employee must have worked at least 20 hours per normal work week for at least 50% of the weeks in the previous calendar quarter. We may request any necessary information to document the hours and time period in question, including, but not limited to, payroll records and employee wage and tax filings.
- And meets the individual employee criteria as defined by the California Small Group Act for an eligible part-time employee.

Former employees who are eligible for COBRA or Cal-COBRA may enroll for the period permitted by law.

Oscar may request additional documentation, including payroll records and employee wage and tax filings, to determine an employee's eligibility.

The following types of employees are **not** eligible:

- Employees who do not live, work, or reside within the group's Oscar service area
- Former employees who are covered through retiree benefits
- Leased/shared employees
- Board of Director members and stockholders, unless they are also officers and working at least 30 hours per week
- Independent contractors
- Temporary and seasonal employees
- Residents of Hawaii or workers living outside the United States
- Part-time workers, unless offered by the employer and meet the requirements listed above.
- Domestic help or household staff

## Dependent

Eligible dependents include spouses, natural children, stepchildren, legally adopted children, unmarried disabled children, newborn children, children for whom the employee has legal custody, and children for whom the employee has court ordered custody and are chiefly dependent on the employee for support. Foster children and grandchildren are not covered unless the employee is the legal guardian.

Spouses and domestic partners who work for the same employer may enroll separately, or one may enroll as a dependent under the other's coverage. If a child's parents are employees of the same employer, the child may only be covered under one plan if the parents are enrolled individually.

Children are eligible for coverage until the end of the year in which they reach the age of 26.

Once a disabled child reaches age 26, they may be eligible to remain on the employee's group plan if proof of incapacity and dependency is sent to Oscar within 31 days of the date the child turns 26. We may ask for evidence the child is still disabled annually for two years after the child reaches the limiting age.

In order to verify dependent eligibility, Oscar may request birth certificates, marriage documents, proof of domestic partnership, adoption papers or court orders when dependents are added to the policy.

## Requirements

### Waivers

Some employees will have coverage through another source and will not want or need coverage with the group plan. If these employees are covered by a spouse’s plan, a parent’s plan, Medicaid, Medicare, Veteran’s coverage, or individual coverage with APTC, they are considered “valid waivers.” Maintaining individual coverage or simply choosing not to enroll is not a valid waiver.

All eligible employees waiving coverage must complete the Employee Waiver Form.

### Minimum Employer Contribution

Employers must contribute at least 50% of the employee premium or a minimum of \$100 of the employee premium. There is no minimum contribution requirement for dependents. Payroll deduction is required if contributory.

### Participation Requirements

Groups must ensure that employee participation requirements are met at the time the group initially enrolls and each year upon renewal. These requirements are listed below.

The participation rate is calculated by dividing the number of enrolling employees by the total number of eligible employees (after subtracting those who have a valid waiver).

If an employee chooses to waive coverage, Oscar reserves the right to confirm participation requirements by collecting the employee’s current carrier documents, including but not limited to the ID card and the policy effective date.

Groups that do not meet our participation and/or contribution requirements are eligible to enroll between November 15 and December 15 of each year for a January 1 effective date. Other Underwriting Guidelines still apply. Groups must be complete and have all requirements submitted by 12/15.

Employee Contribution Toward Premium	Participation Requirements
Noncontributory (employer pays all)	100% of eligible employees after subtracting valid waivers
Contributory (employer pays less than all)	60% of eligible employees after subtracting valid waivers
Split Carrier Participation	60% of all eligible employees must enroll in a plan offered by the employer. The greater of 25% of all eligible employees, or 5 eligible employees, must enroll with Oscar.

## Enrollment

### How to Submit an Enrollment

Enrollment can be submitted online at [business.hioscar.com](https://business.hioscar.com). It's typically helpful if whoever is submitting the enrollment has reviewed the Oscar small group California enrollment forms, which can be found at [hioscar.com/brokers/LA](https://hioscar.com/brokers/LA).

#### Submitting an enrollment online

To access the enrollment portal you must first get an account from Oscar. If you are a member of a contracted general agency or appointed broker for the state of California you will automatically be granted an account. Others should contact Oscar Support directly for assistance. Once you have an account the entire enrollment of a group can be done online and paperless.

### Effective Dates and Important Deadlines

New groups may start coverage on the 1st or 15th of any month.

Oscar must receive the completed applications no later than 5 working days after the desired effective date.

If additional documents are required, Oscar must receive the documents within 10 days of the request in order to honor the requested effective date. If the documents are not received within 10 days, the group's enrollment could be cancelled or moved to the next possible effective date.

We will accept applications for future effective dates up to 60 days in advance.

### Annual Enrollment Period

The annual enrollment period is the 30 days prior to the group's renewal date. During the annual enrollment period, eligible employees who did not enroll during the new hire enrollment period may sign up for coverage and enrolled employees may change plans or add/remove dependents.

During this period, the group may change the designated waiting period, and plan offerings in the 30 days prior to the renewal date.

## Special Enrollment

Outside of the annual enrollment period, when an employee or dependent (including the employee's spouse) loses coverage or experiences a qualifying event, they may be eligible for a special enrollment period. Please note that the employee and dependents must otherwise be eligible to enroll.

The employee, spouse, domestic partner and/or dependents may enroll within 60 days of the loss of coverage due to:

- Loss of minimum essential coverage
- An Employee or Dependent has lost or will lose coverage under another employer health benefit plan as a result of
  - termination of his or her employment;
  - termination of employment of the individual through whom he or she was covered as a Dependent;
  - change in his or her employment status or of the individual through whom he or she was covered as a Dependent,
  - termination of the other plan's coverage,
  - exhaustion of COBRA or Cal-COBRA continuation coverage,
  - cessation of an Employer's contribution toward his or her coverage,
  - death of the individual through whom he or she was covered as a Dependent, or
  - legal separation, divorce or termination of a Domestic Partnership.
- Employee gains or becomes a dependent, including in the case of legal guardianship
- Coverage is mandated pursuant to a valid state or federal court order
- Health coverage issuer substantially violated a material provision of the health coverage contract
- Employee or Dependent gains access to new health benefit plans as a result of a permanent move
- An individual has been released from incarceration
- Employee or Dependent are receiving services from contracting provider no longer in prior benefit plan
- An Employee or Dependent is a member of the reserve forces of the United States military returning from active duty or a member of the California National Guard returning from active duty service

The employee, spouse, domestic partner and/or dependents may also enroll 60 days from date of a qualifying event, such as:

- Employee's exhaustion of COBRA or continuation coverage
- Employee gains a Dependent or becomes a Dependent through marriage, birth, court order, adoption, or placement for adoption
- Employee, spouse or dependent loses eligibility for Medicaid or a state child health plan; or
- Employee, spouse or dependent becomes eligible for Medicaid or a state child health plan

## Waiting Periods

Waiting periods are elected by the group employer and can only be changed during the annual enrollment period. They are not applicable during the group's initial enrollment and will go into effect for employees joining after the group's initial coverage start date.

During the annual enrollment period, groups may choose a waiting period in accordance with federal regulation. The group may not impose a waiting period that exceeds 90 days. If the group chooses to impose a waiting period, it must be consistently applied to all employees.

Waiting periods Pursuant to CA SB 1034 (2014), employer groups are responsible for correctly notifying Oscar of member eligibility and applying the applicable waiting periods. Waiting periods must comply with Section 2708 of Federal Public Health Service Act (42 U.S.C. Sec. 300gg-7).

Waiting period options may be applied as follows:

- First of the month following date of hire
- First of the month following one month from date of hire
- First of the month following two months from the date of hire, not to exceed 90 days.

In addition to the waiting period, an employer may implement an orientation period that may not exceed 30 days. The waiting period begins after the completion of the orientation period. Employers are responsible for administering and tracking the orientation period.

The employer may waive the waiting period for all new hires at the initial group enrollment only. The group's waiting period is applied to all employees in the group with no exceptions for any eligible employee. Note: Dual waiting periods are not allowed.

## Plan Choices

Employers may select up to three Oscar benefit plans to offer their employees. There are no restrictions on the combination of plan options.

## Rates

Premium rates are guaranteed for 12 months and are based on the employer's location, not on the health history of the group. Rates are based on the employer's location if in the Oscar Service Area. If the employer is not located in the Oscar Service area, the rate is based on where the majority of enrolling employees reside. A group's final rate is calculated once the completed group enrollment has been submitted. Rates are based on the enrollees' ages on the effective date of the contract. Rates are recalculated on the contract anniversary. Final rates, effective date and group approval will be determined by Oscar small group underwriting.

Rate tables are posted at [hioscar.com/brokers/LA](https://hioscar.com/brokers/LA) and Oscar for Business quotes are available through major quote engines and general agent partners.

## Prior Carrier Deductible Credit

Oscar will credit prior calendar year deductible if valid EOB from prior carrier is provided within 60 days of group implementation. These accumulators must have been earned under the same employer group's policy and not on an individual policy. Oscar will honor credit only for employees covered under the prior group policy, and for the initial enrollment. New hires not covered on the prior group policy are not eligible for deductible credit. Rx deductible credit is only applicable if it was included in the same medical deductible. Oscar plans are EPO, however deductible credit will be honored from any qualified PPO, HMO or EPO group plan. The new Oscar policy must start the day following the date that the previous coverage was terminated, meaning there can be no lapse in coverage for the group.

## Takeover provisions

Oscar small group takeover provisions comply with the following:

- Any Employer providing replacement health coverage must provide, within a period of 60 days from the date prior coverage is discontinued, proof of prior coverage under a policy which provided health coverage comparable to the new group contract, and will be required to cover all employees and dependents who were both:
  01. Eligible and covered under the prior contract at the time the contract was discontinued, **and**
  02. Within the definitions of eligibility under the Oscar's contract
- Qualified employees and dependents will be eligible regardless of any other provision within the Oscar contract relating to active full-time employment or pregnancy.
- Employees or dependents who are totally disabled on the date of discontinuance of the prior contract and eligible for an extension of benefits under that contract, Oscar is not required to provide benefits directly related to any condition which caused the total disability.

## Workers' Compensation

Enrolled employers must offer a workers' compensation policy as required by law.

## COBRA

Groups with 20 or more full time and/or FTE employees for at least 50% of the preceding calendar year are required by federal and state law to offer COBRA to employees who are qualified beneficiaries. A qualified beneficiary is an individual covered by the group plan on the day before a qualifying event who is either an employee, the employee's spouse, or an employee's dependent child. In addition, any child born to or placed for adoption with a covered employee during the period of COBRA coverage is considered a qualified beneficiary.

Qualifying events are certain events that would cause an individual to lose health coverage. The type of qualifying event will determine who the qualified beneficiaries are.

The qualifying events for **employees** are:

- Voluntary or involuntary termination of employment for reasons other than gross misconduct
- Reduction in the number of hours of employment

The qualifying events for **spouses** are:

- Voluntary or involuntary termination of the covered employee's employment for any reason other than gross misconduct
- Reduction in hours worked by the covered employee
- Death of covered employee
- Covered employee's becoming entitled to Medicare
- Divorce or legal separation of a covered employee

The qualifying events for **dependent children** are the same as for the spouse with one addition:

- Loss of dependent child status under the plan rules

Employers are responsible for administering COBRA. Employers may choose to administer COBRA or may use a COBRA Third Party Administrator (TPA). Oscar does not administer COBRA on behalf of employer groups.

COBRA participants are included on the monthly employer group invoice. The employer must collect premiums and send any required notices to COBRA enrollees.

Employers may charge up to 102% of the group rate for COBRA enrollees.

## California State COBRA

Groups with less than 20 FTE employees for at least 50% of the preceding calendar year are required to offer Cal-COBRA continuation coverage to employees who are no longer eligible for group health coverage.

The following events are Cal-COBRA qualifying events:

- Employee's termination of employment or reduction in hours
- Death of subscriber
- Divorce or legal separation from the subscriber
- Loss of eligible dependent status of an enrolled child
- Subscriber becomes entitled to Medicare
- Expiration of COBRA coverage if COBRA lasted 18 months

It is the employer's responsibility to comply with Cal-COBRA requirements through mailing notices and collecting premium payments. Employers may elect to use Oscar's partner, WageWorks, to administer Cal-COBRA coverage.

Cal-COBRA rates can be up to 110% of the group rate.

## TEFRA / Medicare Reporting

Each year all carriers must report to Centers for Medicare & Medicaid Services (CMS) the number of Medicare Secondary Payer (MSP) groups and the number of employees, based on the number of employees provided by the employer.

For groups that employ less than 20 employees in a year, any employee who turns age 65 will have Medicare as his or her primary carrier. For employees who turn 65 and choose to retain their Oscar small group coverage, Oscar will become the secondary payer, after Medicare, for benefits. This applies whether or not the employee has applied for and has been made effective for Medicare Parts A and B coverage.

When a member is covered by both Medicare as primary and Oscar as secondary, total benefits provided by Medicare and Oscar should equal but not exceed the benefits of group members who do not have Medicare coverage.

For groups that employ 20 or more employees for 20 or more weeks during this calendar year or the prior calendar year, Oscar will be the primary payer. The Medicare plan will be the secondary payer for employees who turned 65 and enrolled in Medicare.

## Guaranteed Renewability

A group must be renewed unless the group has been terminated for one of the following reasons:

- Fraud or misrepresentation of material facts
- Failure to meet Oscar's service area requirements if no employee lives, works or resides in the service area
- Inability to meet group requirements under Oscar's underwriting guidelines or applicable state and federal law
- Oscar discontinues a class of plans or withdraws from the market