Oxford New York Small Group (1-100) Underwriting Requirements[1]

ALL GROUPS – OXFORD HEALTH INSURANCE, INC. (OHI)

The following underwriting requirements apply to all applications or renewals of coverage on our OHI insurance products for effective dates on or after Jan. 1, 2022.

I. **Group Eligibility:** To be eligible for small group coverage, a group must be located in a county in the Oxford Service Area (see Section IV for more information) and have at least one (1) but not more than 100 employees. To qualify as a group health plan under the Employee Retirement Income Security Act (ERISA), at least one common law employee who works an average of 30 or more hours per week must be enrolled. An employee benefit plan does not exist if no "employees" are covered by the plan.

II. **Group Size Requirements:** Group size is determined based on the federal "full-time equivalent" (FTE) employee counting method (26 U.S.C. 4980H(c)(2)). This method is the same calculation used to determine employer liability under the "Shared Responsibility for Employers" provisions of the ACA and Internal Revenue Code.

A. For purposes of determining the full-time equivalent employee count:
   1. Group size is determined based on the average number of FTE employees employed by the employer on business days during the preceding calendar year.
   2. This method counts all employees working for entities under common control under a single employer (includes all subsidiaries and affiliates of a corporate employer).
   3. Both full-time (at least 30 hours/week in any given month) and part-time employees are counted. Seasonal workers as established by 26 U.S.C. 4980(C)(2)(B)(ii) are to be counted only if the only reason the employer group exceeds 100 is due to these seasonal workers.
   4. Employees who are not enrolled in the group's coverage are counted to determine group size. This includes, but is not limited to, employees who:
      a. are part of a class of employees that are not covered or are covered by another carrier;
      b. receive coverage through their union rather than the employer-sponsored coverage;
      c. have waived employer coverage and selected other non-employer coverage; or
      d. are located in another state.

B. The following are not counted to determine group size:
   1. any person who does not meet the common law employee definition under Department of Labor and Internal Revenue Code rules. We will require the employer to certify that these common law employee requirements are met.
   2. former employees who are covered through retiree benefits, the Consolidated Omnibus Budget Reconciliation Act (COBRA) or state continuation.
   3. an individual business owner and his or her spouse (typically known as "sole proprietors") are not considered employees. To qualify as a "group," at least one common law employee must be eligible for and enrolled in the group health coverage. (See special exception below for corporations.)
      a. A business owner and his or her spouse are not considered a group of one (1) and will need to purchase individual coverage. For purposes of determining the existence of a group, spouses are not considered employees even if they are on the payroll.
      b. Partnerships – A plan with multiple owners and spouses without employees is not considered a group.
      c. Special rule for corporations (LLCs, S and C corporations) – An eligible common law employee is not required if the corporation has at least two owners (shareholders) who are not married to each other.

C. Changes in group size:
   1. Group size determination is made at the time of issue and upon renewal. Fluctuation in the size of the group mid-year does not affect eligibility for the current plan. We will make this determination based on the information we have at the time of your renewal.
   2. Groups that no longer meet the group size requirement at renewal will be offered coverage in accordance with their appropriate market segment. If we learn this during an audit, the offering of the appropriate product may occur after we send information about small group renewal options. (See Section VI for information about audits and documentation requirements.)

III. Employees and Dependent Eligibility: Oxford small group products cover employees and their eligible dependents. Employees and former employees who meet the below requirements can enroll. Enrolled employees and former employees must live, work or reside in the Oxford Service Area or, if applicable, a location where we permit out-of-area enrollment. (See Section IV.B for more information.)

A. Eligible employees who may enroll: Active common law employees who work 20 or more hours per week and are eligible for health benefits under the employer's ERISA plan. Active common law employees include any individual employed by an employer (an employer includes entities under common control under a single employer and includes all subsidiaries and affiliates of a corporate employer). Temporary and seasonal employees are eligible at the option of the employer. This includes a "1099 Employee" who is considered a common law employee per Department of Labor regulations and the Internal Revenue Code. A common law definition of employee applies and is based on a case- by-case factual analysis. We may require the employer to certify that these common law employee requirements are met. (More information on determining who is a "common law" employee is available on the IRS website at https://www.irs.gov/businesses/small-businesses-self-employed/employee- common-law-employee and https://www.irs.gov/businesses/small-businesses-self- employed/independent-contractor-self-employed-or-employee.)
   1. Special rules for employees who are members of the armed forces: An affected individual called to active duty may elect to continue his or her group coverage, including family coverage, by making a written request and paying to the group policyholder up to 100% of the premium for the coverage. If an affected individual does not elect continuation rights, group coverage is suspended while the affected individual is on active duty.
   2. The following are not eligible employees:
      a. any person who does not meet the common law employee definition under Department of Labor and Internal Revenue Code rules;
      b. any former employee who is covered through retiree benefits, COBRA or state continuation;
      c. any employee who does not live, work or reside in the United States;
      d. individual proprietors/owners and their spouses (“sole proprietors” or “partnerships”). Owners and spouses may enroll in a group health plan only if the business has an eligible common law employee enrolled in the Oxford plan. (See Section II.B.3 above.)

B. Eligible Former Employees who may enroll: Former employees eligible for COBRA or state continuation may enroll for the period allowed by law. If the employer offers retiree benefits, all eligible retired former employees can be enrolled in Oxford small group products.

C. Valid Employer Class(es): An employer may elect to offer coverage to a class of employees based on conditions pertaining to employment: geographic situs of employment, earnings, method of compensation, hours and occupational duties. Coverage may be limited to specific class(es) of employees if they are the only employees offered coverage. Employees who work less than 20 hours per week are not eligible employees and may not enroll in any Oxford products. **Example:** Employer may elect to offer coverage only to employees who work at least 40 hours per week.

D. Eligible Dependents: An employer may elect to offer coverage to dependents. The following dependents may be enrolled on an Oxford small group product:
   1. Spouses
   2. Domestic Partners
   3. Dependent Children until Age 26 (regardless of financial dependence, residency, student status, employment, marital status, or eligibility for other coverage) - Any policy which provides family

coverage provides coverage for natural children, adopted children, unmarried disabled children, stepchildren, newborn children, children for who the employee has legal custody and are chiefly dependent on employee for support.

4. Additional Eligible Dependents
   a. Foster children
   b. Children for whom the insured is the legal guardian
   c. Dependent Coverage Through Age 29 - Under NY Law, dependents (except for married dependents) may be covered through age 29 through two different options. Young Adult Option (Cobra-like coverage elected by dependent)
   d. Make-Available Rider (Purchased at the option of employer)

IV. Oxford Service Area and Out-of-Area Enrollment:

A. Our Oxford Service Area consists of the following counties in New York where we are licensed and authorized to sell products and have approved products and rates: Bronx, Dutchess, Kings, New York, Orange, Putnam, Queens, Richmond, Rockland, Nassau, Suffolk, Sullivan, Ulster and Westchester counties.

B. We allow out-of-area enrollment options for eligible employees who live, work or reside in another New York county or a state outside of the Oxford Service Area (defined in Section IV.A). Enrollment in our New York products is allowed only to the extent allowed in the eligible employees' location. (As noted in Section I, the Employer must be located in one of the counties in the Oxford Service Area.) The employees will be able to use an affiliate's network or their out-of-network benefits to receive services outside of the Oxford Service Area.
   1. Liberty and Freedom Network Gatekeeper plans: For plans that require referrals from a Primary Care Physician (PCP) to other Participating Providers, an eligible employee must live, work or reside only in the state of New York, New Jersey or Connecticut.
   2. Liberty and Freedom Network Non-gatekeeper plans: For plans that do not require referrals from a Primary Care Physician, eligible employees may live, work, or reside in a state in which we are authorized to deliver a Certificate of Coverage. The list of locations may change from time to time due to regulatory requirements. This list presently includes New York, New Jersey, Connecticut and other states outside of the New York tristate area.
   3. Metro Network plans: An eligible employee must live, work or reside in the Oxford Service Area (See section IV. A) or New Jersey. Metro plans do not have national access and only cover emergency services outside of these locations.

V. Guaranteed Availability and Renewability:

A. Other than Healthy New York, all policies are guaranteed available to groups year-round, unless the group fails to meet our participation and eligibility requirements. New groups that fail to meet participation requirements may enroll during an annual open enrollment period. (See Section IX below.)

B. A group must be renewed unless terminated because of the following:
   1. Fraud or misrepresentation of material facts.
   2. Failure to meet an insurer's service area requirements if no employee lives, works or resides in the Oxford Service Area (See section IV.A).
   3. Lapsed membership by a participating group in an association (for association group coverage).
   4. Inability to meet the definition of a permissible group under applicable state and federal requirements.
   5. Insurer discontinues a class of contracts or withdraws from the market.

VI. Documentation Requirements: We require documents from new groups as part of a group's initial enrollment and for groups making changes on renewal. If documents are not provided within the required timeframe, the group will be denied enrollment. Most documentation can be submitted using SAMx, our online enrollment tool. We also may audit a new or renewing group before or after enrollment/renewal. If post enrollment/renewal, an audit shows the group did not meet the requirements at the time of enrollment and was not eligible for coverage (e.g., not an employer, large group, not in the Oxford Service Area, participation not met, enrollee not an employee), the group will be terminated.

A. Required documents for 1-100 Life Groups:
   1. Group Application (new business) or Certification Form (renewing business);
   2. Eligible waivers (required for all new business, renewing groups on audit and groups renewing into a new market segment);
   3. The Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return Form (NYS-45) or alternative tax documentation detailed in "Instruction Sheet - Oxford NYSG Tax Form Submissions" (required for all new business and renewing groups making policy changes, where applicable). Confirmation of Tax Identification Number will be required in all circumstances.
   4. Additional documentation may be required upon audit.

B. We also have the right to request and be furnished with proof, as may be needed to determine eligibility status of a prospective or covered subscriber and dependent at any time.

VII. Additional Requirements for Healthy New York Small Groups:

A. Healthy New York is only available for groups that have 1-50 FTEs.
B. New and renewing groups must apply for and meet the eligibility requirements of the Healthy New York law and regulations; this includes the required employer contribution.
C. The group size, required hours for eligible employees and Oxford Service Area apply to all Healthy New York small groups.
D. Groups may be subject to audit at any time during the year and additional documentation may be required.
E. One Healthy New York plan at the Gold level is available.
F. Healthy New York small groups must meet all requirements as part of the group's recertification, including Healthy New York documentation requirements. A renewing group that does not submit recertification information timely will be terminated and will need to reapply for coverage.

VIII. Enrollment Periods for Employees and Dependents:

A. Open Enrollment Period: Employees are permitted to join the plan, add dependents or make changes (if applicable) during a 30-day open enrollment period, usually at renewal of the group policy.
B. New Employee Waiting Periods: We do not have waiting periods for new employees. Employers may set a waiting period for new employees from 0 to 90 days. We must give newly eligible employees an enrollment period of at least 30 days to enroll.
C. Special Enrollment Periods: These are periods of time outside of open enrollment periods during which individuals may purchase coverage. If any of the below events occur, an employee or dependent can enroll during the 30-day or 60-day period following the event. We will be able to request proof of such changes.
   1. Thirty (30) Day Special Enrollment Periods:
      a. Marriage
      b. Birth
      c. Adoption
      d. Placement for adoption
      e. Termination of the spouse's employment
      f. Termination of the spouse's other plan or benefit contract
      g. Death of spouse
      h. Legal separation, divorce or annulment
      i. Reduction in the number of hours worked by the spouse
      j. Employer ceased its contribution toward the premium for the spouse's plan or benefit contract
      k. New employee
      l. Change in business structure or acquisition
      m. m. Employer expands coverage to a new class of employees
   2. Sixty (60) Day Special Enrollment Periods:
      a. Gaining or loss of eligibility for CHIP or Medicaid

IX. Small Group Annual Open Enrollment Period:

A. Minimum participation requirements do not apply to coverage issued or renewed during the annual open enrollment period. The annual open enrollment period applies to:
   1. Coverage issued or renewed between November 15 and December 15, and
   2. Coverage applied for between November 15 and December 15 with an effective date of January 1.

B. Outside the annual open enrollment period, we apply minimum participation requirements to both new business and renewals. Minimum participation requirements will apply to renewals if we applied minimum participation requirements to the group's initial application for coverage.

C. The annual open enrollment period does not apply to Healthy New York coverage. (See Section VII for additional Healthy New York requirements.)

X. Minimum Participation:

A. To be eligible for a plan, a minimum of 60 percent of all eligible employees (EEs), after valid waivers, must be enrolled.

B. Valid waivers consist of: Spousal Group, Medicare, Medicaid, Parental Group and Veteran's Coverage (including spousal and parental Veteran's Coverage). Employees who waive coverage for any other reason are not considered to have validly waived coverage and are not included in this count. Coverage purchased through the individual/direct pay market on- or off-exchange does not constitute a valid waiver.

C. Other employer-sponsored coverage may be offered alongside our products, but is not considered a valid waiver and may impact a group's ability to meet minimum participation requirements. It may also impact the group's ability to meet another carrier's participation requirements. Please make sure you understand both carriers' participation requirements before having multiple offerings.

D. If the group offers retiree coverage, the retirees will be excluded from the minimum participation calculation. (Additional documentation may be required on audit to confirm retirees' eligibility for coverage.)

E. <u>The calculation is as follows:</u> # Enrolled ÷ (Total # EEs - Total # of EEs with Valid Waivers) = Participation %

For purposes of the calculation:

- # Enrolled means the total number of employees enrolled in our products.
- # EEs means the total number of employees eligible for employer-sponsored coverage. If a group has an enrolled employee in another state in the Expanded
- Area, then the entire population of eligible employees in the other state is included in the count. The employer must provide information for all eligible employees, including employees enrolled in other coverage.
- # EEs with Valid Waivers means the total number of EEs who waive for Spousal Group, Medicare, Medicaid, Parental Group and Veteran's Coverage (including spousal and parental Veteran's Coverage).
- Do not include the individuals listed in Section III.A.2 in the EE count (i.e., former employees, individual business owners and spouses, and any other person who does not meet common law employee definition.)
- Employers will need to certify these numbers as part of their new business application and will be asked to update this information annually. We may ask for additional information as part of an audit.

<u>Example</u>: Employer only offers coverage to a management class of 35 employees located in New York (25 EEs) and Florida (10 EEs). No other employees are eligible for coverage. Ten (10) EEs submit valid waivers for spousal coverage and five (5) submit waivers for non-valid reasons.
Fifteen (15) enroll in the plan. The group has a 60% participation rate and meets the requirement (15 ÷ (35-10) = 60%).

<u>Example</u>: Employer offers coverage from multiple carriers to 75 employees. The fifty (50) employees located in New York, New Jersey and Connecticut are eligible for Oxford coverage. Twenty (20) employees submit valid waivers for Spousal Coverage. Twenty-two (22) select an Oxford plan. Eight (8) select another carrier's plan. The group has a 73% participation rate and meets the requirement (22 ÷ (50-20) = 73%).

Example: Employer has 65 employees located in Manhattan. All are eligible for coverage. Thirty (30) management employees are eligible for Oxford coverage and thirty-five (35) non- management employees are eligible for another carrier's coverage. Ten (10) management and ten (10) non-management employees submit valid waivers for spousal coverage. The remaining twenty (20) management employees enroll in the Oxford plan. The group has a 44% participation rate and does not meet the requirement (20 ÷ (65-20) = 44%).

[1] These guidelines may be updated from time to time and are subject to regulatory approval.

