

Here's all the fine print

Oscar for Business Underwriting Guidelines
Health plans for New York small groups with 1-100 employees
Effective from October 1, 2020
Last Updated October 24, 2020

Welcome to Oscar for Business.

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 for Business plans. Read on to get familiar with our policies and applicable state and federal laws.

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

01. Oscar for Business covers groups with one (1) to 100 employees
02. A group must be located in New York
03. A business must employ eligible individuals who live, work, or reside in Oscar's New York service area
04. A minimum of 51% of eligible employees must enroll in the Oscar for Business policy

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/NY.

Table of Contents

Group Eligibility

- Group Size
- One Life Groups
- Required Documents

Eligibility

- Employee
- Dependent

Requirements

- Waivers
- Minimum Employer Contribution
- Participation Requirements

Enrollment

- How to Submit an Enrollment
- Effective Dates and Important Deadlines

- Late Enrollees
- Annual Enrollment Period
- Special Enrollment Period
- Waiting Periods
- Plan Choices
- Rates
- Group Buy-Downs
- Workers' Compensation
- COBRA
- New York State COBRA
- Medicare Reporting
- Guaranteed Renewability

Voluntary Terminations

- Group Terminations
- Employee Terminations

Group Eligibility

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

01. The business employed between one (1) and one hundred (100) full-time equivalent (FTE) employees for at least 50% of the preceding calendar year. If the business didn't exist in the previous calendar year, see our Group Size requirements below for additional detail.
02. The business is located in New York and employs eligible individuals who live, work, or reside in Oscar's New York service area, which includes Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk, and Westchester counties.

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

- Employers not authorized to conduct business in New York
- Groups formed with the sole purpose of obtaining health insurance
- Groups that do not have at least one (1) W-2 employee, for example:
 - 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, both of whom do not receive W-2s

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. Here are some FAQs 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, on

average, 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/NYS State Continuation?**

- 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/NYS State Continuation should not be included when determining group size.

- **What if the group is a new company?**

- Groups must be in existence for at least four (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.
- Companies with more than one tax ID number may enroll as a single group if one owner has a controlling interest in all businesses to be included.

- Affiliated companies under common control may enroll separately or together, as long as the entire group meets the 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 NYS-45. 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 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 per section 414 of the Internal Revenue Code of 1986, 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.

One Life Groups

In order to qualify as a "group health plan" under ERISA, an employer must have at least one (1) common law* employee that is eligible and enrolled in addition to an owner and the owner's spouse.

01. Partnerships or Limited Partnerships: If only partners and their spouses are covered,

they are not a group health plan unless there is at least one (1) other common law employee eligible and enrolled in coverage.

02. **Partnerships where only the partners and / or their spouses are covered**, are not a group health plan, unless there is another common law eligible and enrolled employee covered under the plan.
03. **Corporations (S or C) or LLCs**: Two (2) owners who are not spouses, qualify as a group health plan in all cases, if at least one of the owners can document that they are actively working and must enroll.
04. **Marriage** is a matter of state law, and would include civil unions as allowed by state law. Domestic partners who are not married and individuals who are legally divorced are not considered “spouses” for purposes of applying this Rule.
05. **Children** of the sole owner may be the other common law employee, so long as s/he is over the age of 18 (i.e., no longer a minor child per state law) and is enrolled for coverage under the terms of the employer-sponsored plan.

* A common law employee is defined as an employee receiving a W-2 that is neither the owner nor owner’s spouse.

Required Documents

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

- **New York Business Enrollment Form**
 - This can be completed online in the Oscar enrollment portal.
 - If a group is enrolling two (2) members or fewer, you must also include proof of ownership.
- **New York Employee Enrollment application(s)**
 - One (1) application should be completed for each enrolling employee or COBRA/NYS State Continuation recipient. These applications can be completed entirely online by employees - or completed on paper and then entered in the portal by the authorized Broker or GA.
- **Employee Waiver form(s) and applicable waiver documentation**
 - One (1) form is needed for each employee waiving or refusing coverage, including COBRA/NYS State Continuation employees. Waivers may be completed online in the Oscar enrollment portal.

- **NYS-45** is required for all enrolling groups, unless there are seven (7) or more eligible enrolling employees.
 - Documents submitted must match the list of enrolling employees.
- **ACH Authorization Form**
 - **It is optional but highly encouraged to expedite member ID card delivery.** ACH payments can be set up for automatic deduction on the first of every month or can be uploaded solely for an automatic first payment.
 - If the group wishes to pay the first premium via check, they must wait for approval and the first bill generation and delivery; additionally, **a copy of the check must be uploaded during the submission.** The first premium signed check will then have to be mailed in along with the bill stub.
- Payroll verification through appropriate tax documentation (required for all groups) - listed below.

Additional Required Enrollment Documents by Group Type:

Type of group	Documents required
Sole Proprietorship*	One of the following: <ul style="list-style-type: none"> ● IRS Schedule C and 1040 Form (If owner is not listed on NYS-45) ● IRS Schedule F and 1040 Form for Farms
Corporation	New York Secretary of State active web confirmation, and one of the following: <ul style="list-style-type: none"> ● Owner Affidavit ● If owners not listed on NYS-45, 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 ● Additional proof of income for the owner may be required if tax filings are not available due to length of time in business <p>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.</p>
Partnership / Limited Liability Partnership (LLP)	If owners not listed on NYS-45, 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)	<ul style="list-style-type: none"> ● Statement of Organization with Operating Agreement ● If owners not listed on NYS-45, recent K-1 or other applicable tax filing document or W-2
Non-Profit Company	<ul style="list-style-type: none"> ● Most recent Quarterly Federal Tax Return (IRS Form 941), current payroll report, and one of the following: <ul style="list-style-type: none"> ○ IRS letter 501c3 ○ IRS application for exempt status ○ New York Secretary of State active web confirmation ○ National Federal Credit Union active web confirmation
Group who filed a consolidated tax return as an affiliated group	<ul style="list-style-type: none"> ● IRS Form 851, or a letter from a CPA
Churches	<ul style="list-style-type: none"> ● IRS Form 941 ● Payroll records from the prior four (4) weeks
Seasonal industries	<ul style="list-style-type: none"> ● Prior four (4) NYS-45 reports
Spinoffs	Four (4) weeks of payroll or NYS-45, 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 NYS-45	IRS Form W-2, and most recent four (4) week payroll report and dates of hire for all New Hire employees
COBRA /New York State Continuation Coverage Enrollees	Most recent NYS-45 Form on which employees appeared, or bill from group's prior carrier listing COBRA/State Continuation Coverage enrollees

* Owner Only (e.g., Sole Individual Owner/Proprietor): When the owner is just the individual or the individual and his/her spouse, it is not a group health plan unless at least one (1) other common law employee is enrolled in the plan. See section "One Life Groups" for more information (It does not matter if the business' legal tax structure is an LLC or other Corporation).

In order to verify eligibility, Oscar's Eligibility team may request additional documentation above and beyond what is listed here.

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 Oscar-underwritten individual policy. The applicant must elect one or the other policy to avoid duplication of coverage.

Eligibility

Employee Eligibility

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

01. The employee lives, works, or resides in Oscar's New York service area, or the employee lives or resides in any of the following New Jersey counties: Bergen, Middlesex, Union, Hudson, Essex, Morris, Passaic, Monmouth, Somerset, Mercer, Sussex, Hunterdon, Warren or Ocean; and
02. The employee meets the hourly requirements for eligibility

For groups offering out of area coverage, employees are eligible even if they do not live, work or reside in the Oscar service area.

Eligible employees are common law employees who work at least 20 hours per week. A common law employee is anyone who performs services for an employer if the employer can control what will be done and how it will be done. The common law test to determine control would look at behavioral control, financial control and the type of relationship between the parties.

Former employees who are eligible for COBRA or state continuation 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 meet the definition of a common law employee under the Department of Labor and Internal Revenue Code Rules
- Leased/shared employees
- Board of Director members and stockholders, unless they are also working at least 30 hours per week and receiving W-2s
- Independent contractors and 1099 employees, unless they pass the common law employee test and the employer chooses to provide coverage
- Temporary and seasonal employees
- Residents of Hawaii or workers living outside the United States

Dependent Eligibility

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.

Domestic partners may be eligible for dependent coverage if the employer chooses to cover domestic partners on the initial group application or during the annual renewal period. If the employer does not opt to cover domestic partners when the group is submitted, and later wishes to cover domestic partners, the change will not be made until the next renewal period.

Spouses and domestic partners (if covered) 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 month they reach the age of 26. Child dependents may be eligible for an extension of coverage through age 29 under the group plan if the employer has purchased the Age-29 Rider, or if the child chooses to enroll in the Young Adult Option. Premiums for the Young Adult Option are based on the single employee rate. Child Dependents with the Age-29 Rider or the Young Adult Option will age-off of the policy at the end of the month in which they turn 30.

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 it annually for two years after the child reaches the limiting age.

In order to verify dependent eligibility, Oscar may request such proof as may be needed to determine eligibility status, such as 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 due to the following reasons, then they are considered a "valid waiver":

01. Coverage by another group's plan
02. Coverage by Medicare, Medicaid, or TRI-CARE
03. Enrolled as an individual in a health plan
04. Enrolled as a dependent in a group health plan through a different employer

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

Participation Requirements

In order to be eligible for coverage, at least 51% of eligible employees must participate in the Oscar for Business policy. 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.

If groups are enrolling during the Federal Enrollment Period, participation requirements may not apply. Refer to section "Annual Enrollment Period" for additional information.

Enrollment

How to Submit an Enrollment

Enrollment can be submitted online at business.hioscar.com. It's typically helpful if whoever is submitting the enrollment has reviewed the Oscar small group New York enrollment forms, which can be found at <https://www.hioscar.com/brokers/NY>.

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 New York 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 future month. Once the effective date has been set and confirmed during the Annual Enrollment Period, requests for a change in effective date will not be allowed. Small groups may begin their applications as early as 60 days in advance of the desired effective date.

All completed applications and requested documents must be submitted by the 5th business day after the desired effective date; however, if additional documents are required, documents

must be received within an additional five (5) business days from when the request was sent in order to honor the requested effective date.

Late Enrollees

Eligible employees and dependents who did not sign up for the group's health plan when they were first eligible to enroll and later request enrollment are designated as "late enrollees." A late applicant must wait until the group's next enrollment period to request coverage. This does not include "New Hires" or employees that have a valid QLE.

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, including late applicants, may sign up for coverage and enrolled employees may change plans or add/remove dependents.

Groups that do not meet our participation and/or contribution requirements listed in the sections above [(“Minimum Employer Contribution”), (“Participation Requirements”)] are eligible to enroll between November 15 and December 15 of each year for a January 1 effective date. Groups may also change the designated waiting period, and plan offerings within 30 days of their eligibility date. Other Underwriting Guidelines still apply. Groups must be complete and have all requirements submitted by December 15.

Special Enrollment Period

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. Supporting documentation must be submitted with the Qualifying Life Event, such as a letter from the member's prior insurer indicating date coverage ended, a marriage certificate, a birth certificate, etc.

The employee, spouse, domestic partner and/or dependents may enroll within 30 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 state 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

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 period options may be applied as follows:

- None [Days or Months, DOE or FOMF]
- One (1) to 90 days following Date of Event Administration [DOE]
- One (1) or two (2) Month(s) DOE or FOMF Administration

In addition to the waiting period, an employer may implement an orientation period that may not exceed 90 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 (3) Oscar benefit plans to offer their employees. There are no restrictions on the combination of plan options.

Employee Classes

A business may offer a carve out, or limit coverage to a class of employees based on conditions pertaining to employment:

- Geographic site of employment - for employees residing
- Earnings or method of compensation (e.g. hourly vs salaried)
- Number of hours worked per week
- Occupational duties
- Date of hire or length of service
- Membership in a union

Additional classifications are available, so long as the distinction in class is based on bona fide conditions pertaining to employment. Participation requirements must be met at a group level. In order to offer a carve-out, the employer must define the eligible class on the initial application. No other coverage may be offered by the business to employees of an ineligible class. For carve-outs, there must be at least two (2) employees enrolled in the eligible class. Oscar's Underwriting Team may request additional documentation to verify membership in a class.

An employer may choose to differentiate coverage within classes. Classes may also be customized by waiting period, contribution amount and plan offered. Oscar allows up to three employee classes with up to three (3) plans in each. Regardless of class, an employee must

work 20 or more hours per week. If creating multiple classes, there must be at least one employee enrolled in each.

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. 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. Composite rates are not allowed.

Rate tables are posted at hioscar.com/brokers/NY and Oscar for Business quotes are available through major quote engines and general agent partners.

through major quote engines and general agent partners.

Prior Carrier Deductible Credit

Oscar will not honor the deductible credit under a prior carrier's plan.

Group Buy-Downs

Buy-downs, in other words, selecting a plan with lesser premium, will not be accepted outside a group's Annual Enrollment Period. Should the group request a termination and buy-down ("re-write"), 60 days written notice must be provided. Additionally, the group will have to change their policy / plan year in accordance to their ERISA group health plans. Prior year deductible credits will not be given.

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.

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.

New York State (NYS) Continuation Coverage

Groups employing between two (2) to nineteen (19) FTE employees for at least 50% of the preceding calendar year are required to offer NYS continuation coverage to employees who are no longer eligible for group health coverage.

Oscar does not administer New York State Continuation Coverage. NYS Continuation Coverage enrollees will be included on the group's monthly premium invoice. It is the employer's responsibility to collect payment and send notices required by New York State Law.

NYS Continuation Coverage rates can be up to 102% 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 businesses 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 businesses 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

Voluntary Terminations

Group Terminations

A group must provide written notice to Oscar requesting the group's termination by the day before the effective date.

Employee Terminations

A group must notify Oscar as soon as an enrollee (holder, spouse, or dependent) no longer meets the eligibility requirements of the policy. Notice must be provided within 30 days of the event.

If a group would like to terminate an employee's coverage, written notice must be provided to Oscar's Eligibility team. Coverage will terminate on the actual date specified by the group or employee or at the end of the month. If the group or employee requests to terminate coverage retroactively, then employees can be terminated up to 30 days retroactively from the date written notice is received by the Oscar Eligibility team.