

## **EXHIBIT 20**



# Oregon

Kate Brown, Governor

**Department of Consumer and Business Services**  
**Oregon Health Insurance Marketplace**  
350 Winter St. NE  
P.O. Box 14480  
Salem, OR 97309-0405  
855-268-3767  
Fax: 503-315-9144  
[oregonhealthcare.gov](http://oregonhealthcare.gov)

October 31, 2019

Submitted Electronically Only ([www.regulations.gov](http://www.regulations.gov))

Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB)

Department of State's Bureau of Consular Affairs, Office of Visa Services.

Re: Notice of Information Collection Under OMB Emergency Review: Immigrant Health Insurance Coverage; Docket Number: DOS-2019-0039; DN: 2019-23639;

To Whom It May Concern:

I write this letter on behalf of the Oregon Health Insurance Marketplace (Marketplace) to comment on the Notice of Information Collection Under OMB Emergency Review: Immigrant Health Insurance Coverage published in the Federal Register on Oct. 30, 2019.

The Marketplace helps Oregonians get coverage when they are not eligible for the Oregon Health Plan and don't get health insurance through their job or another program. It is a state-based marketplace using the federal platform (SBM-FP) authorized under state law and the Affordable Care Act (ACA). The Marketplace is tasked to ensure Oregonians have equitable access to high-quality, affordable health coverage and to promote universal health coverage in the state. Today, the Marketplace covers more than 148,000 Oregonians.

You requested comments to permit the Department of State to:

- (1) Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- (2) Evaluate the accuracy of our estimate of the time and cost burden of this proposed collection, including the validity of the methodology and assumptions used.
- (3) Enhance the quality, utility, and clarity of the information to be collected.
- (4) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

The Department of State, through its consular officers proposes to “verbally ask immigrant visa applicants covered by [Presidential Proclamation 9945 (JPP 9945[])] whether they will be covered by health insurance in the United States within 30 days of entry to the United States and, if so, for details relating to such insurance.” “If applicants answer affirmatively, consular officers will ask for applicants to identify the specific health insurance plan, the date coverage will begin, and such other information related to the insurance plan as the consular officer deems necessary.”

The information requested is not necessary for the “proper functions of the Department.” The Department could certainly function, as it has for decades, without requesting or receiving the indicated information.

The State of Oregon opposes the Department of State’s overbroad and vague grant of authority to consular officers to ask “such other information related to the insurance plan as the consular officer deems necessary.” The grant fails to create a single standard for all similarly situated individuals, which will result in similarly situated immigrants treated differently based on the whims of a consular officer. The grant also presumes a level of expertise in identifying the types of health insurance coverage named in PP 9945 that would be unreasonable to expect from a consular official.

The State of Oregon agrees that a verbal ask for the name of the insurance plan and the date coverage is to begin is reasonable and poses a minimal burden on an immigrant. However, we cannot say the same for the request of “such other information related to the insurance plan as the consular officer deems necessary.” Depending on what information the consular officer believes is necessary, the information requested could be burdensome and could result in the erroneous denial of a visa. The State of Oregon urges the government to limit the request to the name of the insurance plan and date of coverage so that all similarly situated people are afforded the same protection and benefit under the law.

The Marketplace supports the verbal ask and receipt of information as an appropriate and minimally burdensome method for obtaining the information. While the method of collecting the information is certainly reasonable, the underlying policy basis for requesting the information is not. It is unreasonable for PP 9945 to impose an individual mandate to purchase health insurance coverage on new immigrants when neither Congress nor this administration supports an individual mandate on citizens and existing immigrants.

PP 9945 creates a catch-22 situation: Under existing federal law, immigrants cannot access insurance through Marketplaces without verifying residency and lawful presence through a strict eligibility process this federal administration has championed. Yet, under PP 9945, those seeking to establish residency and lawful presence through proper immigration channels cannot do so without verifying insurance status. As a result, people who otherwise could become lawfully present immigrants and qualify for health insurance under federal law will be barred from both aims. This paradox is contrary to federal law and illogical in its practical result.

The United States is a country of immigrants. In recognition of this fact, Congress has created laws that benefit immigrants. The ACA is, in part, one such law. The ACA allows lawfully present immigrants to benefit from premium tax credits. PP 9945 negates this part of the ACA by denying entrance to the United States to immigrants based on their legal and legitimate right to premium tax credits.

PP 9945 shows disregard for the economic and health benefits of ensuring access to health insurance coverage for all immigrant residents, including the working poor who are still in progress on the path to economic security.

Because immigrants will not be able to seek health insurance through marketplaces, PP 9945 undermines the health of Oregon's insurance market, potentially affecting coverage for immigrants and nonimmigrants alike.

Beyond the immediate harms to lawfully present immigrants being barred from accessing insurance through marketplaces such as HealthCare.gov, the proclamation undermines our commercial insurance market by seeking to excise lawfully present immigrants from the coverage to which they are legally entitled. Lawfully present immigrants in Oregon are more likely to represent "favorable" insurance risk, because they are often younger, healthier, or lower-than-average users of health care services when compared to the general insured population. Several studies have concluded that immigrants are net contributors to both private coverage and Medicare, paying more in insurance premiums than they receive in benefits.

Of further concern, the proclamation seeks to permit Short-Term Limited-Duration Plan (STLDP) coverage to qualify as "acceptable" coverage. This type of coverage does not comply with the Affordable Care Act's consumer protections, nor those codified in Oregon's insurance code. Such plans have been widely demonstrated to lack critical comprehensive coverage and can be prohibitively expensive for people with pre-existing conditions. Qualified legal immigrants' health and financial well-being are threatened when they are diverted from meaningful, comprehensive coverage to which they are legally entitled and instead directed towards companies that engage in medical underwriting, spend the majority of premium revenue on nonmedical expenses, and are known to exclude core benefits such as maternity, mental health, and substance use disorder treatment. This will also lead to people with such coverage, winding up with unpaid medical bills, placing undue financial burden on the state's hospital system.

Finally, we strongly object to the two-day comment period afforded to the public on this proposal, which will profoundly affect our immigration and health care systems. Two days is wholly inadequate to allow for the sufficient public consideration that a policy of this significance merits, and this policy in no way constitutes an emergency.

Therefore, we urge you to withdraw and reconsider this policy, and we request that reasonable time be provided for public analysis and comment on any subsequent related proposal.



Chiqui Flowers  
Administrator  
Oregon Health Insurance Marketplace  
Department of Consumer and Business Services  
State of Oregon