

ENROLLED SENATE  
BILL NO. 558

BY: FISHER of the SENATE

and

HUDSON and NIEMI of the  
HOUSE

AN ACT RELATING TO INSURANCE AND REVENUE AND  
TAXATION; AMENDING SECTIONS 2, 3, 4, 5, 6 AND 7,  
CHAPTER 338, O.S.L. 1990 (36 O.S. SUPP. 1990,  
SECTIONS 6502, 6503, 6504, 6505, 6506 AND 6507),  
WHICH RELATE TO THE HEALTH INSURANCE  
OPPORTUNITIES FOR EMPLOYED UNINSURED OKLAHOMANS  
ACT AND SECTION 8, CHAPTER 338, O.S.L. 1990 (68  
O.S. SUPP. 1990, SECTION 2357.31), WHICH RELATES  
TO CERTAIN TAX CREDIT; MODIFYING PURPOSE;  
MODIFYING DEFINITIONS; DELETING PROVISION FOR  
PAYMENT FROM CERTAIN REVOLVING FUND; MODIFYING  
POWERS OF BOARD; MAKING CERTAIN EXCLUSIONS AND  
BENEFIT LIMITS OPTIONAL; DELETING CERTAIN PLAN  
REQUIREMENTS; MODIFYING POWER OF BOARD TO APPROVE  
CERTAIN INCREASES IN PREMIUMS, FEES AND CHARGES;  
ALLOWING ISSUER TO DISCONTINUE PARTICIPATION IN  
PLAN WITH CERTAIN WRITTEN NOTICE; MODIFYING  
DEFINITIONS; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 338, O.S.L.  
1990 (36 O.S. Supp. 1990, Section 6502), is amended to read as  
follows:

Section 6502. It is hereby declared that the purpose of this  
act is to:

1. Provide access to adequate health care at an affordable  
price for Oklahomans who currently lack such access;
2. Increase the number of Oklahomans who have basic medical  
benefits;
3. Encourage employers to offer and share in the cost of basic  
medical care benefits; and
4. Limit increases in the cost of health care through  
competition, ~~effective peer review and provider participation in  
capitalizing a basic insurance plan.~~

SECTION 2. AMENDATORY Section 3, Chapter 338, O.S.L.  
1990 (36 O.S. Supp. 1990, Section 6503), is amended to read as  
follows:

Section 6503. As used in this act:

1. "Administrator" means the Administrator employed by the  
Oklahoma Basic Health Benefits Board;
2. "Board" means the Oklahoma Basic Health Benefits Board;
3. "Dependent" means an eligible employee's spouse and  
unmarried children or stepchildren within age limits and other  
conditions as determined by the Board with regard to unmarried  
children or stepchildren;

4. "Eligible employee" means an employee, proprietor or partner who:

- a. is a resident of this state as defined pursuant to rules promulgated by the Board,
- b. works an average of twenty-four (24) hours a week or more for an eligible employer, and
- c. ~~(1) was not covered by a group health insurance policy or plan offered by the same employer within the two (2) months preceding the effective date of this act and, subsequently, has not been provided such coverage by such employer, or~~  
~~(2) was not covered by a group health insurance policy or plan offered by the same employer within the fifteen (15) months preceding the offer to purchase health insurance issued pursuant to this act;~~

5. "Eligible employer" means a corporation, partnership or proprietorship which:

- a. has done business in this state for at least one (1) year as defined pursuant to rules promulgated by the Board,
- b. has not provided health insurance:  
~~(1) within the (2) months preceding the effective date of this act and, subsequently, on or after the effective date of this act, or~~  
~~(2) within the fifteen (15) months preceding the offer to purchase health insurance issued pursuant to this act,~~  
to at least seventy-five percent (75%) of its employees who are residents of this state and work an average of twenty-four (24) hours or more a week for said employer, and
- c. does not violate any rule of the Board promulgated to prevent abuse by parties who form firms primarily for the purpose of qualifying as an eligible employer;

6. "Issuer" means each entity which the Board approves to issue a state-certified, basic health benefits plan; and

7. "State-certified, basic health benefits plan" means the basic health benefits plan developed and approved by the Oklahoma Basic Health Benefits Board pursuant to this act.

SECTION 3. AMENDATORY Section 4, Chapter 338, O.S.L. 1990 (36 O.S. Supp. 1990, Section 6504), is amended to read as follows:

Section 6504. A. There is hereby created the Oklahoma Basic Health Benefits Board, to continue until July 1, 1996, in accordance with the provisions of the Oklahoma Sunset Law. The Board shall determine and approve the terms and conditions of a state-certified, basic health benefits plan and provide for the promotion and administration of the plan in accordance with the provisions of this act.

B. The Board shall be composed of eleven (11) members who shall be appointed as follows:

1. One member shall be appointed by the President Pro Tempore of the Senate from an employer or business organization;
2. One member shall be appointed by the Speaker of the House of Representatives from an organization representing employees who lack health insurance; and
3. Nine members shall be appointed by the Governor, subject to confirmation by the Senate, one of whom shall be appointed from each of the following categories:

- a. a physician licensed to practice medicine in this state pursuant to the provisions of Section 481 et seq. of Title 59 of the Oklahoma Statutes and included on a list of nominees provided by the Oklahoma State Medical Association,
- b. an osteopathic physician licensed to practice osteopathic medicine in this state and included on a list of nominees provided by the Oklahoma Osteopathic Association,
- c. a chiropractic physician licensed to practice chiropractic in this state and included on a list of nominees provided by a recognized chiropractic association,
- d. a physical therapist licensed to practice in this state pursuant to the provisions of Section 887.1 et seq. of Title 59 of the Oklahoma Statutes and included on a list of nominees provided by the Oklahoma Chapter of the American Physical Therapy Association,
- e. a hospital administrator or a member of a hospital governing board included on a list of nominees submitted by the Oklahoma Hospital Association,
- f. a state official with responsibilities for delivery of health services,
- g. a state official with responsibilities for administration of purchasing functions,
- h. a person who has professional training and experience in health insurance, and
- i. a person who is licensed to practice law or as a public accountant or a certified public accountant in this state and has experience in fund management.

C. Members of the Board shall serve three-year terms and until their respective successors are appointed and qualified. Provided, of those members initially appointed by the Governor, three members shall serve for one (1) year, three members shall serve for two (2) years and three members shall serve for three (3) years, as designated by the Governor. A vacancy in a position on the Board shall be filled for the unexpired term in the same manner as the original appointment.

D. At the first meeting and annually thereafter, the Board shall elect a chairman, who shall preside over the meetings of the Board and perform such other duties as required by the Board; a vice-chairman, who shall perform the duties of the chairman in the absence of the latter or upon his inability or refusal to act; and a secretary, who shall keep minutes of all meetings and who shall certify to actions of the Board. The Board shall hold regular meetings at least once each quarter and may hold special meetings upon written notice of the chairman or by agreement of any five members of the board.

A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action. Official action of the Board must have a favorable vote by a majority of the members present. No Board member shall be individually or personally liable for any action of the Board. The Board shall adopt rules and procedures to effectuate its purpose.

The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, and the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

E. The Board shall hire an Administrator who shall be in the unclassified service. The Administrator shall have supervisory, managerial or administrative health insurance experience in insurance underwriting, safety or loss prevention, claims management or claims adjustment. The Administrator shall act at the direction of and provide staff support to the Board. Office space and logistical support required by the Board shall be provided by the Office of Public Affairs. The Attorney General shall provide the Board with legal advice and with assistance in drafting rules of the Board.

F. Members of the Board shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. ~~Reimbursement to Board members and any other administrative expenses of the Board shall be paid from the Basic Health Benefits Board Revolving Fund, created pursuant to this act.~~

SECTION 4. AMENDATORY Section 5, Chapter 338, O.S.L. 1990 (36 O.S. Supp. 1990, Section 6505), is amended to read as follows:

Section 6505. A. The Oklahoma Basic Health Benefits Board shall have the following powers and duties:

1. Provide for the promotion and administration of the state-certified, basic health benefits plan;

2. Determine and approve minimum benefits consistent with the provisions of this act, a policy or contract and approve policies and contracts to be offered and issued under the state-certified, basic health benefits plan, scope of services covered, ~~maximum initial premium amounts rates, premium rate increases,~~ coinsurance, deductibles, ~~provider payment schedules, and, if appropriate, stop loss provisions, and maximum annual or lifetime benefit amounts and other benefit provisions;~~

3. Approve entities to issue the state-certified, basic health benefits plan;

4. Conduct a promotion campaign to acquaint employers and employees with the plan and encourage their participation;

5. Establish a grievance procedure, which shall be in accordance with the provisions of the Oklahoma Administrative Procedures Act, by which complaints of participants in the plan shall be heard;

6. Ensure that all policies or contracts, promotional materials and other printed materials developed and disseminated in connection with the plan are written in plain language and readily understandable by lay citizens of average intelligence who have neither medical nor legal training or expertise; and

7. Publish an annual report which shall include a summary of the costs to the Board to administer and promote the plan, the participation in the plan by employers and employees and their dependents, the benefits covered under the plan and premiums charged, and tax credits and refunds granted pursuant to this act and a summary of the most recent actuarial analysis of the plan as provided by the issuer. The annual report shall be submitted by February 1 of each year to the Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives.

B. The Board shall be authorized to contract for:

a. preparation of plan terms and conditions,

b. planning and direction of promotion of the plan,

c. issuance of the plan policy or contract, and

d. such other functions deemed necessary by the Board to effectively manage its responsibilities.

Contracts with private entities shall be awarded by the Board pursuant to state competitive bidding procedures through the Office of Public Affairs.

SECTION 5. AMENDATORY Section 6, Chapter 338, O.S.L. 1990 (36 O.S. Supp. 1990, Section 6506), is amended to read as follows:

Section 6506. A. 1. The Oklahoma Basic Health Benefits Board shall develop a basic health benefits plan which provides coverage for basic hospital and physician care and limited coverage for mental health care, substance abuse treatment and prescription drugs.

2. The plan shall not include coverage for the following:
- a. cosmetic surgery,
  - b. chronic fatigue treatment, and
  - c. obesity remediation.

B. The plan may include coverage for transplant procedures which shall be limited to kidney, cornea and bone marrow transplants.

C. ~~Except as otherwise provided in this act, at a minimum the~~ The plan shall may, at the option of the carrier, exclude preexisting conditions for the first ninety (90) days of coverage. Subsequently, payments under the plan for treatment of a preexisting condition ~~shall may~~ be limited to benefits totalling Five Hundred Dollars (\$500.00) during the first year of coverage, One Thousand Dollars (\$1,000.00) during the second year of coverage and One Thousand Five Hundred Dollars (\$1,500.00) during the third year of coverage. Thereafter, normal policy limits ~~shall may~~ apply. ~~The Board may provide for more restrictive terms for exclusions and benefit limits for preexisting conditions.~~

D. Prenatal care, as defined by the Board, shall be included in the plan and shall not be subject to any deductible, copayment, or exclusion as a preexisting condition. Provided, the Board may limit the maximum dollar amount of coverage for such care.

E. The plan shall be offered to eligible employees and their dependents through eligible employers. ~~Except as otherwise provided in this act, no evidence of insurability shall be required as a condition of coverage under the plan, nor shall the plan vary premiums or benefits according to the age of eligible employees or their dependents.~~ Eligible employers shall be required to pay at least fifty percent (50%) of the full cost of the portion of the premium attributable to the eligible employee.

F. The plan shall provide minimum participation requirements for each employer which shall be as follows:

<u>Number of Employees</u>	<u>Participation in Plan</u>
3 - 8	100% of employees
9 - 14	all but 1
15 - 18	all but 2
19 - 20	all but 3
21 - 23	all but 4
24 - 25	all but 5
over 25	75% of employees

For purposes of this subsection, "employees" means the employer and eligible employees except for an employer or employee who is covered as a dependent under another group health insurance policy or plan.

G. The plan ~~shall may~~ provide for evidence of insurability and may apply underwriting standards, deductibles, copayments, and exclusions for preexisting conditions, as determined by the Board, which are more restrictive than those applied to other eligible employees, for any proprietorship, partnership or corporation which is comprised of two individuals or less. The Board may develop

rules to prevent abuse by parties who form firms primarily for the purpose of qualifying as an eligible employer.

SECTION 6. AMENDATORY Section 7, Chapter 338, O.S.L. 1990 (36 O.S. Supp. 1990, Section 6507), is amended to read as follows:

Section 6507. A. The Oklahoma Basic Health Benefits Board shall approve entities to issue a policy or contract under which the state-certified, basic health benefits plan will be offered. Notwithstanding any other provision of law, the issuers shall not be required to provide under said policy or contract benefits other than those approved by the Board. The issuers shall coordinate marketing of the plan with the promotion campaign conducted by the Board.

B. Issuers shall not reduce benefits under the plan without prior approval by the Board. Issuers shall not increase ~~premiums~~ premium rates, fees or other charges by more than fifteen percent (15%) during any twelve-month period without prior approval of the Board. The Board may, from time to time, revoke the certification of any state-certified, basic health benefits plan for noncompliance by an issuer with any provisions of this act or rules of the Board. Upon decertification, the issuer shall notify each employer and each policy holder of the revocation of the certification. An issuer may choose to discontinue participation in the plan upon ninety days' prior notice in writing to the Board and to each employer and policy holder.

C. Issuers shall assume all liability for maintaining adequate reserve funds and for payment of all claims under the plan. Issuers shall assume the liability for continuing risk required by the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), as amended. Nothing in this act shall be construed to constitute a financial obligation or general obligation of the State of Oklahoma nor shall state funds be used to reserve for or pay losses incurred by the issuer.

D. 1. Any issuer may develop agreements with health care providers, to be known as network providers, to provide services under the plan and to receive payment for said services under terms and conditions prescribed by the issuer. The conditions may provide for lower deductibles and copayments for services provided by network providers and for reimbursement to nonnetwork providers who provide services for a patient referred by a network provider.

2. Any issuer may develop agreements with network providers whereby network providers contribute to the capitalization of reserves for the plan. Such agreements may provide that network providers accept provisional payments at a percentage of the allowable reimbursement as set by the issuer and that the balance of the allowable reimbursement be held in reserve until such time the issuer determines that reserves are sufficient to allow additional payments to said providers.

E. Any issuer may develop and administer a system of peer or utilization review for the purpose of reviewing services by and reimbursements to physicians and hospitals.

SECTION 7. AMENDATORY Section 8, Chapter 338, O.S.L. 1990 (68 O.S. Supp. 1990, Section 2357.31), is amended to read as follows:

Section 2357.31 A. As used in this section:

1. "Eligible employer" means a corporation, partnership or proprietorship which:

- a. has done business in this state for at least one (1) year,
- b. has not provided group health insurance;

~~(1) within the two (2) months preceding the effective date of this act and, subsequently, on or after the effective date of this act, or~~

~~(2) within the fifteen (15) months preceding the offer to purchase group health insurance which meets the requirements of this section,~~

to at least seventy-five percent (75%) of its employees who are residents of this state and work an average of twenty-four (24) hours or more a week for said employer,

c. offers the state-certified, basic health benefits plan to all eligible employees who worked an average of twenty-four (24) hours or more a week during the calendar quarter preceding the purchase of the policy, and

d. pays fifty percent (50%) or more of the full cost of the portion of the premium attributable to the employee for which the employer is claiming credit;

2. "Eligible employee" means an employee, proprietor or partner of the employer claiming the credit who:

a. is a resident of this state,

b. works an average of twenty-four (24) hours a week or more for the employer, and

c. ~~(1) was not covered by a group health insurance policy or plan offered by the same employer within the two (2) months preceding the effective date of this act and, subsequently, has not been provided such coverage by such employer, or~~

~~(2) was not covered by a group health insurance policy or plan offered by the same employer within the fifteen (15) months preceding the offer to purchase health insurance which meets the requirements of this section; and~~

3. "State-certified, basic health benefits plan" means the basic health benefits plan developed and approved by the Oklahoma Basic Health Benefits Board.

B. For tax years beginning after December 31, 1990, there shall be allowed to an eligible employer a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for premiums paid on behalf of each eligible employee who elects to participate in the state-certified, basic health benefits plan and meets the requirements of this section. The credit shall be in the amount of Fifteen Dollars (\$15.00) a month for each eligible employee and shall be allowed for two (2) consecutive tax years. Provided, if the tax liability of an employer pursuant to Section 2355 of Title 68 of the Oklahoma Statutes is less than the credit to which the employer is entitled pursuant to this section, the Oklahoma Tax Commission shall pay a refund to the employer. The refund shall equal the difference between the amount of taxes owed, after any other credits or exemptions to which the employer is entitled have been applied to the tax liability, and the credit to which the employer is entitled pursuant to this section for the tax year.

C. The credit shall not be granted unless the eligible employer certifies to the Oklahoma Tax Commission that each employee for which the credit is claimed is participating in the state-certified, basic health benefits plan.

D. The Oklahoma Tax Commission shall develop and issue appropriate forms and instructions to enable eligible employers to claim the tax credit. The Commission shall promulgate rules to facilitate the implementation of this section.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 28th day of May, 1991.

President of the Senate

Passed the House of Representatives the 30th day of May, 1991.

Speaker of the House of Representatives