

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 1961

BY: VOSKUHL

AS INTRODUCED

AN ACT RELATING TO INSURANCE; AMENDING 36 O.S. 1991, SECTION 6055, WHICH RELATES TO FREEDOM OF CHOICE OF PRACTITIONER FOR ACCIDENT AND HEALTH BENEFITS; PROVIDING FOR THE ASSIGNMENT OF BENEFITS OF A PREPAID DENTAL PLAN AT THE OPTION OF THE MEMBER OF THE PLAN; AMENDING 36 O.S. 1991, SECTIONS 6141, 6142, 6148, 6151, 6154 AND 6156, WHICH RELATE TO THE PREPAID DENTAL PLAN ACT; PROVIDING THAT THE PREPAID DENTAL PLAN ACT TAKE PRECEDENCE OVER CONFLICTING LAWS; MODIFYING DEFINITION; MODIFYING POLICY REQUIREMENTS; PROHIBITING CERTAIN DISCRIMINATION; PROVIDING STANDARD FOR COMPENSATION; REQUIRING THE INSURANCE COMMISSIONER TO APPROVE OR DISAPPROVE OF POLICIES WITHIN CERTAIN TIME; ELIMINATING AUTOMATIC APPROVAL PROVISION; REMOVING THE AUTHORITY OF THE INSURANCE COMMISSIONER TO DETERMINE THAT PROVISIONS OF THE UNFAIR TRADE PRACTICES AND FRAUD ARTICLE OF THE INSURANCE CODE SHALL NOT APPLY TO PREPAID DENTAL PLAN ORGANIZATIONS; PROVIDING FOR SUMMARY SUSPENSION OR REVOCATION OF CERTIFICATES IN CERTAIN CIRCUMSTANCES; PROVIDING FOR SUSPENSION OR REVOCATION WHEN SUMMARY SUSPENSION IS NOT WARRANTED; MODIFYING RESTRICTIONS ON ADVERTISING;

DECLARING THAT THE PREPAID DENTAL PLAN ACT DOES NOT
ALTER THE RELATIONSHIP OF DENTIST AND PATIENT;
PROHIBITING THE INFLUENCING OF CHOICE OF DENTIST;
PROHIBITING CERTAIN INDUCEMENTS; PROVIDING FOR
CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 6055, is amended to read as follows:

Section 6055. A. For any individual, group, blanket, franchise policy, insurance trust, nonprofit contract or agreement whatever, providing accident or health benefits hereafter renewed or issued for delivery from out of Oklahoma or in Oklahoma by any insurer, whether a stock or mutual insurance company, medical service corporation or association, nonprofit hospital service and medical indemnity corporation, self-insured trust, nonprofit group, or any other type of insurer whatever, and covering an Oklahoma risk, the services and procedures may be performed by any practitioner selected by the insured, or his parent or guardian if the insured is a minor, provided that the practitioner is duly licensed under the laws of this state to perform such services or procedures approved by the appropriate board of examiners. The practitioner, at the option of the insurer, or for services rendered pursuant to a prepaid dental plan, at the option of the plan member, may be compensated when benefits are assigned and on file and claims are processed on standard American Medical Association forms and a duplicate copy of the bill has been sent to the insured. The practitioner shall be equally compensated for such services and procedures on the basis of charges prevailing in the same community for similar services and procedures to similarly ill or injured persons regardless of the branch of the healing arts to which the

practitioner may belong, provided such profession or practitioner does not permit false and fraudulent advertising or such profession or practitioner does not aid or abet the insured to violate the terms of the contract or agreement.

B. Nothing in this section shall prohibit a practitioner from contracting with a payor, payors or insurers for alternative levels or methods of payment.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 6141, is amended to read as follows:

Section 6141. Sections ~~1~~ 6141 through ~~17~~ 6157 of this title and Sections 8 and 9 of this act shall be known and may be cited as the "Prepaid Dental Plan Act". In the event of a conflict between the provisions of the Prepaid Dental Plan Act and any other provision of law, the Prepaid Dental Plan Act shall take precedence.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 6142, is amended to read as follows:

Section 6142. As used in the Prepaid Dental Plan Act:

1. "Member" means an individual who is enrolled in a group prepaid dental plan as a principal subscriber, and dependents who are entitled to dental care services under the plan solely because of their status as dependents of the principal subscriber.

2. "Membership coverage" means any certificate or contract issued to a member specifying the dental coverage to which said member is entitled.

3. "Prepaid dental plan" means any contractual arrangement whereby any prepaid dental plan organization, nonprofit dental service corporation, health maintenance organization, preferred provider organization, or other coordinated care or managed care entity, undertakes to provide payment of dental services directly, or to arrange for prepaid dental services, or to provide for payment for dental services from providers who are members of a plan, or to pay or make reimbursement for any dental services not provided for

by other insurance, or to arrange for a guaranteed treatment fee schedule for dental services.

4. "Prepaid dental plan organization" means any person who undertakes to conduct one or more prepaid dental plans providing ~~only~~ dental services.

5. "Prepaid dental services" means services included in the practice of dentistry in all of its branches as defined in Section 328.3 of Title 59 of the Oklahoma Statutes.

6. "Provider" means any person licensed or otherwise authorized to furnish prepaid dental services in this state other than an authorized insurer.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 6148, is amended to read as follows:

Section 6148. A. Every member in a prepaid dental plan shall be issued a membership coverage policy by the prepaid dental plan organization.

B. No policy for membership coverage or amendment to said policy shall be issued or delivered to any person in this state until a copy of the policy for membership coverage or amendment to said policy has been filed with and approved by the Commissioner.

C. A policy for membership coverage shall contain a statement of:

1. The prepaid dental services or other benefits to which the member is entitled under the prepaid dental plan; and

2. Any limitations of the services or benefits to be provided, including any deductible or co-payment feature; and

3. Information as to how services may be obtained; and

4. The obligation of the member for charges for the prepaid dental plan; and

5. The right of the member to assign benefit payments to the provider.

D. Any member in a prepaid dental plan shall be free to select any licensed dental practitioner to provide dental services and prepayment or reimbursement determinations shall be made without regard to whether the provider is a participating or nonparticipating member of the plan. ~~This provision~~ No prepaid dental plan organization shall directly or indirectly discriminate between participating and nonparticipating providers. The provider shall be equally compensated for such services on the basis of charges prevailing in the same community for similar services. The provisions of this subsection shall be printed on the policy for membership coverage.

E. Membership coverage shall contain no provisions or statements which are unjust, unfair, untrue, inequitable, misleading, deceptive, or which encourage misrepresentation as determined by the Commissioner.

F. The Commissioner shall approve or disapprove any policy of membership coverage, within thirty (30) days after such policy is filed with the Commissioner, if the requirements of this section are complied with and the prepaid dental plan, in the judgment of the Commissioner, is able to meet its financial obligations for the membership coverage. It shall be unlawful for a prepaid dental plan organization to issue a policy until approved. ~~If the Commissioner does not disapprove any such policy within thirty (30) days after filing, said policy shall be deemed approved.~~ If the Commissioner disapproves a policy of membership coverage, the Commissioner shall notify the prepaid dental plan organization, specifying the reasons for disapproval. The Commissioner shall grant a hearing on such disapproval within thirty (30) days after a request in writing for a hearing is received by the Commissioner from the prepaid dental plan organization.

SECTION 5. AMENDATORY 36 O.S. 1991, Section 6151, is amended to read as follows:

Section 6151. Article 12 of Title 36 of the Oklahoma Statutes relating to unfair trade practices and frauds shall apply to prepaid dental plan organizations, ~~except to the extent the Commissioner may determine that particular provisions of said article shall not apply to prepaid dental plan organizations.~~

SECTION 6. AMENDATORY 36 O.S. 1991, Section 6154, is amended to read as follows:

Section 6154. A. ~~The~~ If the Commissioner determines, pursuant to Section 314 of Title 75 of the Oklahoma Statutes, that public health, safety, or welfare requires summary suspension or revocation of a certificate, the Commissioner may immediately suspend or revoke any certificate of authority issued to a prepaid dental plan organization pursuant to the provisions of the Prepaid Dental Plan Act if the Commissioner finds that any of the following conditions exist:

1. The prepaid dental plan organization is operating contrary to the basic organizational documents of the organization or is operating in a manner contrary to that described in, and reasonably inferred from, any other information submitted pursuant to Section 4 6144 of this ~~act~~ title; or

2. The prepaid dental plan organization issued membership coverage which does not comply with the requirements of Section 8 6148 of this ~~act~~ title; or

3. The prepaid dental plan does not provide or arrange for basic dental services appropriate to a prepaid dental plan; or

4. The prepaid dental plan organization can no longer be expected to meet obligations to members or prospective members of the prepaid dental plan; or

5. The prepaid dental plan organization, or any authorized person acting on behalf of the organization, has advertised or merchandised services offered by said organization in an untrue, misleading, deceptive, or unfair manner; or

6. The prepaid dental plan organization fails to deal equitably with any dentists, dental physicians, technicians, or other persons or facilities whose services are covered within a contract or policy for prepaid dental insurance; or

7. The prepaid dental plan organization has failed to substantially comply with the provisions of the Prepaid Dental Plan Act or any rules and regulations promulgated thereunder.

If the Commissioner determines that any of the conditions provided in this subsection exist, but that emergency action pursuant to Section 314 of Title 75 of the Oklahoma Statutes is not warranted, the Commissioner may suspend or revoke the certificate of authority of the prepaid dental plan organization after notice and hearing as provided in the Administrative Procedures Act.

B. When the certificate of authority of a prepaid dental plan organization is suspended, the organization shall not accept, during the period of such suspension, any additional members except newly acquired dependents of existing members and shall not engage in any advertising or solicitation.

C. When the certificate of authority of a prepaid dental plan organization is revoked, the organization shall proceed to terminate operation of the organization immediately and shall conduct no further business except as may be essential to the orderly conclusion of the business affairs of the organization. The Commissioner, by written order, may permit such further operation of the organization as the Commissioner finds to be in the best interest of members of the organization.

D. If a certificate of authority is suspended or revoked pursuant to the provisions of this section, the Commissioner may invoke a fine not exceeding One Thousand Dollars (\$1,000.00) for each violation. The payment of the fine may be enforced in the same manner as civil judgments may be enforced. All fines collected

pursuant to provisions of this section shall be deposited in the State Insurance Commissioner Revolving Fund.

E. A prepaid dental plan organization which has had its certificate of authority denied, suspended, or revoked, or has suffered an adverse decision by the Commissioner, shall be entitled to a hearing pursuant to the provisions of the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

SECTION 7. AMENDATORY 36 O.S. 1991, Section 6156, is amended to read as follows:

Section 6156. A. No advertising or sales material relating to a prepaid dental plan organization shall be issued or delivered to any person in this state until a copy of said material has been filed with and approved by the Commissioner. Within thirty (30) days after submission of said advertising or sales material, the Commissioner shall either approve the advertising or sales material, or shall disapprove it should he determine that in whole or in part said material is false, deceptive, or misleading. If the Commissioner disapproves any advertising or sales material he shall give written notification to the person who submitted the material. Thereafter, such advertising or sales material shall not be used by any person. Violation of the provisions of this subsection shall entitle the Commissioner in his discretion and without additional cause to withdraw approval of any membership coverage with respect to which said advertising or sales material is used.

B. Offers to sell prepaid dental insurance by advertising or publication of material by prepaid dental plan organizations or anyone acting on behalf of the organization to inform members and potential members of the plan as to the coverage offered by the plan and the operation of the organization shall not be a violation of any provisions of law relating to solicitation of customers or

advertising by prepaid dental plan providers, if the advertising or sales material:

1. is approved prior to use, by the Commissioner upon determination by the Commissioner that the advertising or sales material is not inaccurate, false, deceptive, or misleading; and
2. does not identify the providers of dental services nor describe their professional qualifications, except upon the request of the member or potential member; and
3. does not describe the professional experience or attainments of providers of dental services individually or as a group, or contain language that states, evaluates or lauds the professional competence, skills or reputations of such providers; and
4. shall not cause any providers of dental services to violate any professional ethics or laws prohibiting the solicitation of patients; and
5. does not interfere or influence a member to refrain from obtaining services from the provider of his or her choice.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6158 of Title 36, unless there is created a duplication in numbering, reads as follows:

Nothing in the Prepaid Dental Plan Act shall be deemed to alter the statutory relationship of dentist and patient. No prepaid dental plan organization shall in any way attempt to influence the member in his or her free choice of a dentist, other than to require that services be obtained from dentists who are licensed in the State of Oklahoma and in good standing with the Board of Governors of the Registered Dentists of Oklahoma.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6159 of Title 36, unless there is created a duplication in numbering, reads as follows:

No prepaid dental plan organization, and no director, trustee, officer, agent, employee, solicitor or other representative thereof

shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement of membership, any rebate of premiums or dues, payable on the policy or contract, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment contract for services of any kind or any value, consideration or inducement whatever; nor give, sell or purchase, or offer to give, sell or purchase, as an inducement of membership or in connection therewith, any stock, dividends or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon or anything of value whatever.

SECTION 10. This act shall become effective September 1, 1992.

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