STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2156 BY: MONSON

AS INTRODUCED

AN ACT RELATING TO INSURANCE; CREATING THE HEALTH INSURANCE AND HEALTH BENEFITS ASSOCIATION ACT; PROVIDING SHORT TITLE; CREATING THE HEALTH INSURANCE AND HEALTH BENEFITS ASSOCIATION; PROVIDING FOR MEMBERSHIP; PROVIDING FOR AN ORGANIZATIONAL MEETING; PROVIDING ALTERNATIVE TO VOLUNTARY PLAN; PROVIDING FOR SELECTION OF A BOARD OF DIRECTORS; PROVIDING TERMS OF OFFICE; PROVIDING FOR VACANCIES; PROVIDING FOR CERTAIN REIMBURSEMENT; PROVIDING FOR ANNUAL MEETINGS; REQUIRING THE BOARD TO DEVELOP A PLAN OF OPERATIONS; PROVIDING REQUIREMENTS AND RESTRICTIONS FOR THE PLAN; REQUIRING APPROVAL OF THE PLAN BY THE INSURANCE COMMISSIONER; PROVIDING DUTIES, RESTRICTIONS, AND POWERS OF MEMBERS OF THE ASSOCIATION; PROVIDING DUTIES AND POWERS OF THE BOARD OF DIRECTORS; PROVIDING MAXIMUM LIABILITY FOR COVERAGE; CREATING THE HEALTH CARE BENEFITS FUND; PROVIDING FOR ADMINISTRATION OF THE FUND; PROVIDING SOURCES OF REVENUE FOR THE FUND; DECLARING THAT FUND IS NOT STATE MONEY; SPECIFYING ALLOWABLE EXPENDITURES FROM THE FUND; PROHIBITING USE OF STATE MONIES CLAIMS AGAINST THE FUND; PROVIDING FOR AN ASSESSMENT; STATING PURPOSE; PROVIDING EXEMPTIONS FROM THE

ASSESSMENT; PROVIDING CERTAIN IMMUNITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4601 of Title 36, unless there is created a duplication in numbering, reads as follows:

This act shall constitute Article 46 of the Insurance Code and shall be known and may be cited as the "Health Insurance and Health Benefits Association Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4602 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a nonprofit legal entity to be known as the Health Insurance and Health Benefits Association. Any insurer licensed to transact health insurance in this state, any nonprofit hospital service and medical indemnity corporation, health maintenance corporation, or preferred provider organization doing business in this state may become a member of the Association. The Association shall perform its functions under a plan of operation established and approved in accordance with Section 4 of this act and shall exercise its powers through the board of directors established in Section 3 of this act.

B. The Insurance Commissioner shall hold an organizational meeting of the Association, no later than October 1, 1992. The Commissioner shall give notice of the time and place of the organizational meeting to all potential members.

C. At the organizational meeting the members shall select the initial board of directors. In determining voting rights at the

organizational meeting, each member shall be entitled to one vote in person or by proxy.

D. If an insufficient number of potential members, as determined by the Insurance Commissioner, join the Association or if the Association fails to select a board of directors or submit the plan required by Section 4 of this act, the Insurance Commissioner shall devise a program to effectuate the purposes of the plan and require all potential members to participate in the program.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4603 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Association shall elect a board of directors from the membership of the Association, subject to the approval of the Insurance Commissioner. The original board of directors shall be appointed for the following terms: three members for a term of one (1) year, three members for a term of two (2) years, and three members for a term of three (3) years. Thereafter, all board members shall be elected for a term of three (3) years. Vacancies on the board shall be filled by the remaining directors for the remainder of the unexpired term, subject to the approval of the Insurance Commissioner. In approving selections for the board, the Commissioner shall consider, among other factors, whether all members of the Association are fairly represented.

B. The board of directors shall receive no compensation for serving on the board, but may be reimbursed from the Health Care Benefits Fund for expenses incurred by them for serving on the board, as provided in the plan of operation.

C. The board of directors shall develop the plan of operation required by Section 4 of this act and perform such other functions as are required to carry out the provisions of the Health Insurance and Health Benefits Association Act.

D. The board of directors shall meet at least annually to assess the adequacy of the plan of operations and to develop any needed amendments to the plan.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4604 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The board of directors, by March 1, 1993, shall develop a plan of operation which shall include:

1. Procedural rules for the administration of the Association;

2. A formula for an assigned risk plan, fair to the members and equitable to consumers, for the apportionment among the members of applicants for health insurance policies or health benefit contracts;

3. Policy or contract provisions for health insurance benefits covered pursuant to the Health Insurance and Health Benefits Association Act; and

4. A date for initial issuance of policies and contracts for health care benefits, to be no later than July 1, 1993.

B. The procedural rules shall include, but not be limited to:

1. Procedures for handling the assets of the Association;

2. Establishment of regular places and times for meetings of the board of directors;

3. Establishment of the amount and method of reimbursing the board of directors for expenses incurred in the performance of their duties;

4. Procedures for maintaining records of all financial transactions of the Association and the board of directors;

5. Procedures for amending the plan of operation;

6. Procedures for the development and issuance of policies or contracts for health care benefits;

7. Procedures for the filing of claims under the policies or contracts for health care benefits; and

8. Any additional provisions necessary or proper for the execution of the powers and duties of the Association.

C. The policy or contract for health care benefits shall provide uniform premium rates applicable to all persons covered by the policy or contract, based on state-wide community rating. In determining premium rates the board shall not vary the premiums or benefits according to the age or sex of persons who are provided coverage or use any type of experience rating.

D. The policy or contract for health care benefits shall not impose waiting periods for coverage, or include exclusions for preexisting conditions.

E. The plan of operation shall not apply underwriting standards for determining eligibility for coverage for health care benefits provided pursuant to the Health Insurance and Health Benefits Association Act.

F. The plan of operation shall provide coverage for basic hospital and physician care, and prenatal care, and limited coverage for mental health care, substance abuse treatment and prescription drugs. The plan may include coverage for transplant procedures and any other health care. The plan shall provide for individual and group coverage.

G. The plan of operation, any amendments thereto, and any policies or contracts developed pursuant to the plan of operation shall be submitted to the Insurance Commissioner prior to implementation and shall become effective upon the written approval of the Commissioner.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4605 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Members shall not reduce benefits under the plan without prior approval by the board of directors. Members shall not

increase premium rates, fees or other charges without prior approval of the board.

B. Members shall assume all liability for maintaining adequate reserve funds and for payment of all claims under the plan. Members shall assume the liability for continuing risk required by the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), as amended. Nothing in the Health Insurance and Health Benefits Association 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 member.

C. 1. Any member 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 member. The conditions may provide for lower deductibles and copayments for services provided by network providers and for reimbursement to non-network providers who provide services for a patient referred by a network provider.

2. Any member 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 member and that the balance of the allowable reimbursement be held in reserve until such time the member determines that reserves are sufficient to allow additional payments to said providers.

E. Any member may develop and administer a system of peer or utilization review for the purpose of reviewing services by and reimbursements to physicians and hospitals, pursuant to the provisions of the Hospital and Medical Services Utilization Review Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4606 of Title 36, unless there is created a duplication in numbering, reads as follows:

The board of directors, on behalf of the Association, may:

1. Enter into such contracts as are necessary or proper to carry out the provisions and purposes of the Health Insurance and Health Benefits Association Act;

2. Employ or retain such persons as are necessary to handle the financial transactions of the Association, subject to the approval of the Insurance Commissioner, and to perform such other functions as become necessary or proper under the Health Insurance and Health Benefits Association Act;

3. Join an organization of one or more other state associations of similar purposes to further the purposes and administer the powers and duties of the Association; and

4. Determine and approve minimum benefits consistent with the provisions of the Health Insurance and Health Benefits Association Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4607 of Title 36, unless there is created a duplication in numbering, reads as follows:

The maximum liability of a member for an individual covered pursuant to a policy or contract provided for in the Health Insurance and Health Benefits Association Act shall be Fifty Thousand Dollars ($50,000.00). Any coverage in excess of that amount shall be paid from the Health Care Benefits Fund.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4608 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the Insurance Department the Health Care Benefits Fund. The Fund shall be administered by the

Insurance Commissioner for the Association for the payment of claims in excess of the liability limit provided in Section 7 of this act.

B. The Fund shall consist of all monies collected pursuant to Section 9 of this act and any monies received by the Association in the form of gifts, grants, or from any other source intended to be used for the purposes specified in the Health Insurance and Health Benefits Association Act.

C. The Fund shall be excluded from budget and expenditure limitations. Reimbursements made to or for the benefit of eligible persons shall be exempt from the Central Purchasing Act.

D. 1. The monies deposited in the Fund shall at no time become monies of the state and shall not become part of the general budget of the Insurance Commissioner or any other state agency. Except as otherwise authorized by this subsection, no monies from the Fund shall be transferred for any purpose to any other state agency or any account of the Insurance Commissioner or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. Monies in the Fund shall only be expended for:

a. reimbursements for the benefit of or to eligible persons, and

b. costs incurred by the Association and the Insurance Commissioner for the administration of and costs incurred in carrying out the provision of the Health Insurance and Health Benefits Association Act.

Any costs incurred by the Association or the Insurance Commissioner pursuant to the provisions of the Health Insurance and Health Benefits Association Act shall not exceed the actual expenditures made by the Association or the Insurance Commissioner to implement the provisions of said act.

3. Payment of claims from the Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement from the Fund shall be paid with state monies.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4609 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in this section, there shall be an assessment of Ten Dollars ($10.00) on each individual health insurance policy or health care benefit contract issued by any entity eligible to be a member of the Association and Ten Dollars ($10.00) for each subscriber covered by a group health insurance policy or health care benefit contract issued by any entity eligible to be a member of the Association. The assessment imposed pursuant to the provisions of this section shall be for the purposes of providing revenue to the Health Benefits Fund. The assessment shall be imposed annually and shall be collected and remitted to the Insurance Commissioner by January 1 of each year, beginning January 1, 1993.

B. Exempt from the assessment imposed pursuant to subsection A of this section are:

1. Medicare policies;

2. The State and Education Employees Group Health Insurance; and

3. Policies or contracts issued pursuant to the Health Insurance Opportunities for Employed Uninsured Oklahomans Act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4610 of Title 36, unless there is created a duplication in numbering, reads as follows:

There shall be no liability on the part of and no cause of action of any nature shall arise against members of the Board, employees of the Association, the Insurance Commissioner or employees of the Insurance Department, for any action or omission by

them in the performance of their official powers and duties under the Health Insurance and Health Benefits Association Act. Such immunity shall extend to the participation in any organization of one or more other state associations of similar purposes and to any such organization and its agents or employees.

SECTION 11. This act shall become effective September 1, 1992.

43-2-7040 SD