

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 648

BY: TAYLOR

AS INTRODUCED

AN ACT RELATING TO INSURANCE; AMENDING 36 O.S. 1991, SECTIONS 1254 AND 1258, WHICH RELATE TO RESOLUTION OF INSURANCE CLAIMS; REQUIRING PAYMENT OF CLAIM BY CHECK OR DRAFT PAYABLE ON DEMAND; CLARIFYING LANGUAGE; PROVIDING FOR PRIVATE CAUSE OF ACTION TO ENFORCE ACT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1254, is amended to read as follows:

Section 1254. 1. No insurer shall fail to fully disclose to first party claimants, benefits, coverages, or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

2. No agent shall conceal from first party claimants, benefits, coverages, or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

3. No insurer shall deny a claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so.

4. No insurer, except where there is a time limit specified in the policy, shall make statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such a time limit is not complied with unless the failure to comply with such time limit prejudices an insurer's rights.

5. No insurer shall request a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.

6. No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specified coverage which contain language which releases an insurer or its insured from its total liability.

7. No insurer transacting health insurance in this state shall deny payment to a claimant on the grounds that services, procedures or supplies provided by a treating physician or a hospital were not medically necessary unless said health insurer first obtains a report prepared and signed by a licensed health care provider, and preceded by a medical examination or claim review, stating that the services, procedures or supplies for which payment is being denied were not medically necessary. The report shall detail which specific services, procedures and supplies were not medically necessary, in the opinion of the reviewing health care provider, and an explanation of that conclusion. A copy of each report of a reviewing health care provider shall be mailed by the health insurer, postage prepaid, to the claimant or the treating physician or hospital requesting same within fifteen (15) days after receipt of a written request. As used in this subsection, "physician" means a person holding a valid license to practice medicine and surgery, osteopathy, podiatry, chiropractic or optometry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes.

8. No insurer transacting health insurance in this state shall compensate a reviewing health care provider on the basis of a percentage of the amount by which a claim is reduced for payment.

9. All ~~payment or payments in~~ satisfaction of a claim ~~for a motor vehicle which has been transferred by title to the~~ by an insurer shall be paid by check or draft, payable on demand.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1258, is amended to read as follows:

Section 1258. A. For any violation of the Claims Resolution Act, Section 1251 et seq. of this title, the Commissioner may, after a hearing, subject a person to ~~a civil~~ an administrative fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence. Such fine may be enforced in the same manner in which civil judgments may be enforced. Such fines shall be placed in the Insurance Commissioner's Revolving Fund.

B. The provisions of this section are not intended to be an exclusive remedy and are in addition to any civil remedy for damages sustained by any claimant as a result of a violation of the provisions of Section 1251 et seq. of this title by an insurer.

SECTION 3. This act shall become effective September 1, 1992.

43-2-1604 JY