

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 677

BY: HERBERT

AS INTRODUCED

AN ACT RELATING TO INSURANCE; AMENDING 36 O.S. 1991, SECTION 632, AND 74 O.S. 1991, SECTION 1306, WHICH RELATE TO THE INSURANCE COMMISSIONER, THE OKLAHOMA INSURANCE CODE AND THE STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD; PLACING THE STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD UNDER THE PROVISIONS OF THE OKLAHOMA INSURANCE CODE; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 632, is amended to read as follows:

Section 632. A. Unless otherwise provided for by law or exempted by the provisions of this section, any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or ophthalmologic expenses, whether coverage is by direct payment, reimbursement, or other means, shall be presumed to be subject to the jurisdiction of the Insurance Commissioner unless the person or other entity shows

that while providing coverage the person or entity is subject to the jurisdiction of another agency of this or another state, any subdivision of this state, or the federal government, or provides a plan of self-insurance or other employee welfare benefit program for an individual employer or labor union maintained pursuant to a collective bargaining agreement or other arrangement which provides for health care services solely for its employees or members and their dependents.

B. A person or entity may show that it is subject to the jurisdiction of another agency of this or another state, any subdivision of this state, or the federal government by providing to the Insurance Commissioner the certificate, license, or other document issued by the other governmental agency which permits or qualifies the person or entity to provide those services.

C. Any person or entity which is unable to show that it is subject to the jurisdiction of another agency of this or another state, any subdivision of this state, or the federal government, or provides an employee welfare benefit program for an individual employer or labor union as provided for in subsection A of this section, shall submit to an examination by the Insurance Commissioner to determine the organization and solvency of the person or entity, and to determine whether or not the person or entity is in compliance with applicable provisions of the Oklahoma Insurance Code, Section 101 et seq. of this title.

D. Any person or entity unable to show that it is subject to the jurisdiction of another agency of this or another state, any subdivision of this state, or the federal government, or provides an employee welfare benefit program for an individual employer or labor union as provided for in subsection A of this section, shall be subject to all appropriate provisions of the Oklahoma Insurance Code, Section 101 et seq. of this title, regarding the conduct of its business.

1. Any agent, broker, administrator, or other person or company which advertises, solicits, negotiates, procures, sells, renews, continues, or administers coverage in this state which is provided by any person or entity specified in subsection C of this section for expenses specified in subsection A of this section shall advise any purchaser, prospective purchaser, and covered person of the lack of insurance or other coverage, if the coverage for expenses specified in subsection A of this section is not fully insured or otherwise fully covered by a company authorized to do such business in this state; and

2. Any administrator who advertises or administers coverage in this state which is provided by any person or entity specified in subsection C of this section for expenses specified in subsection A of this section shall advise any agent, broker, or other person or company which advertises, solicits, negotiates, sells, procures, renews, or continues said coverage of the elements of the coverage including the amount of stop-loss insurance in effect.

E. 1. Those entities which are not licensed insurers in this state, other than a hospital service and medical indemnity corporation as authorized in Section 2601 et seq. of this title, shall place the following statement in conspicuous bold-face type on the front page of their policy or certificate: "State insurance insolvency guaranty funds are not available for your use in the event of insolvency or liquidation of this company"; and

2. Those entities which are not licensed insurers, or not subject to the jurisdiction of the Insurance Commissioner or any other state agency, shall place the following statement in conspicuous bold-face type on the front page of their policy or certificate: "This policy or certificate and this entity are not subject to the jurisdiction of the Oklahoma State Insurance Commissioner".

F. Nothing in this section shall exempt the State and Education Employees Group Insurance Board from the provisions of the Oklahoma Insurance Code.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 1306, is amended to read as follows:

Section 1306. (1) The State and Education Employees Group Insurance Board shall administer and manage the group insurance plans and the flexible benefits plan and, subject to the provisions of the State and Education Employees Group Insurance Act, Section 1301 et seq. ~~and~~, the State Employees Flexible Benefits Act, Section 1341 et seq. of this title, and the Oklahoma Insurance Code, Section 101 et seq. of Title 36 of the Oklahoma Statutes, shall have the following powers and duties:

(a) The preparation of specifications for such insurance plans as the Board may be directed to offer;

(b) The authority and duty to request bids through the Purchasing Division of the Office of Public Affairs, for a contract to be the claims administrator for all or any part of such insurance and benefit plans as the Board may be directed to offer;

(c) The determination of the methods of claims administration under such insurance and benefit plans as the Board may be directed to offer;

(d) The determination of the eligibility of employees and their dependents to participate in each of the Group Insurance Plans and in such other insurance and benefit plans as the Board may be directed to offer and the eligibility of employees other than education employees to participate in the Life Insurance Plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;

(e) The determination of the amount of employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;

(f) The establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, Sections 301 through 325 of Title 75 of the Oklahoma Statutes including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense;

(g) The continuing study of the operation of such insurance and benefit plans as the Board may be directed to offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;

(h) The administration of the Health, Dental and Life Insurance Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the Education Employees Group Insurance Reserve Fund;

(i) The auditing of the claims paid pursuant to the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

(j) (1) To select and contract with federally qualified Health Maintenance Organizations under the provisions of 42 U.S.C., Section 300e et seq. for consideration by employees as an alternative to the state self-insured health plan, and to transfer to the HMOs such funds as may be approved for an employee electing HMO alternative services.

(2) HMO contracts shall provide for a risk adjustment factor for adverse selection, that may occur as determined by the Board, based on generally accepted actuarial principles;

(k) To assess and collect reasonable fees from such contracted and federally qualified HMOs to offset the costs of administration;

(l) To contract for re-insurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board;

(m) The Board, pursuant to the provisions of Sections 301 through 325 of Title 75 of the Oklahoma Statutes, shall adopt such rules and regulations consistent with the provisions of the State and Education Employees Group Insurance Act as it deems necessary to carry out its statutory duties and responsibilities;

(n) The Board shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board may be directed to offer. No contract for claims administration services shall be made unless such contract has been offered for bids through the Purchasing Division of the Office of Public Affairs. By July 1, 1991, the Board shall contract with a private insurance carrier or other experienced claims administrator to process claims with software that is normally used for its customers;

(o) The Board shall contract for utilization review services with a company experienced in utilization review, data base evaluation, market research, and planning and performance of the health insurance plan;

(p) The Board shall approve the amount of employee premiums and dependent premiums for such insurance plans as the Board shall be directed to offer for each fiscal year no later than December 1 of the previous fiscal year. The Board shall submit notice of the amount of employee premiums and dependent premiums along with an actuarial projection of the upcoming fiscal year's enrollment, employee contributions, employer contributions, investment earnings, paid claims, internal expenses, external expenses and changes in liabilities to the Director of the Office of State Finance and the Director of the Legislative Services Bureau no later than December 1 of the previous fiscal year. The actuarial projection shall include and disclose an estimate of the future trend of medical costs, the impact from HMO enrollment, antiselection, changes in law, and other contingencies that could impact the financial status of the plan;

(q) The Board shall establish a prescription drug card network for the fiscal year beginning July 1, 1990;

(r) The Board shall have the authority to intercept monies owing to plan participants from other state agencies, when those participants in turn, owe money to the Board. The Board shall be required to adopt rules and regulations ensuring the participants due process of law;

(s) The Board is authorized to make available to eligible employees supplemental health care benefit plans to include but not be limited to long-term care, deductible reduction plans and employee co-payment reinsurance. Premiums for said plans shall be actuarially based and the cost for such supplemental plans shall be paid by the employee; and

(t) There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on State and Education Employees Group Insurance Benefits, which Joint Committee shall consist of three members of the Senate to be appointed by the President Pro Tempore thereof and three members of the House of

Representatives to be appointed by the Speaker thereof. The Chairman and Vice Chairman of the Joint Committee shall be appointed from the membership thereof by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, one of whom shall be a member of the Senate and the other shall be a member of the House of Representatives. At the beginning of the first regular session of each Legislature, starting in 1991, the Chairman shall be from the Senate; thereafter the chairmanship shall alternate every two (2) years between the Senate and the House of Representatives.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall function as a committee of the State Legislature when the Legislature is in session and when the Legislature is not in session. Each appointed member of said committee shall serve until his or her successor is appointed.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefit shall serve as a liaison with the State and Education Employees Group Insurance Board regarding advice, guidance, policy, management, operations, plans, programs and fiscal needs of said Board. Said Board shall not be bound by any action of the Joint Committee.

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

SECTION 4. 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.

43-2-1465

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