

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)  
2ND CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 910

By: Monson of the Senate

and

Fields of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to insurance and health; amending 36 O.S. 1991, Section 631, as amended by Section 1, Chapter 331, O.S.L. 1995 (36 O.S. Supp. 1995, Section 631), which relates to the Medicaid Contingency Revolving Fund; clarifying portion of premium tax to be allocated to certain fund; amending Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994, 74 O.S. 1991, Sections 1303, as last amended by Section 1, Chapter 239, O.S.L. 1995, 1304, as last amended by Section 3, Chapter 359, O.S.L. 1993, 1306, as last amended by Section 15, Chapter 10, O.S.L. 1993, 1308, 1309, 1310.1, 1321, Section 3, Chapter 400, O.S.L. 1992, as last amended by Section 32, Chapter 2, O.S.L. 1994, (74 O.S. Supp. 1995, Sections 840-2.10, 1303, 1304, 1306, 1321, 1363 and 1365), which relate to the State and Education Employees Group Insurance Act, the Oklahoma State Employees Benefits Act, and the State Employee Assistance Program; clarifying certain terms; defining terms; determining eligibility; deleting certain obsolete references; clarifying certain existing practices; changing certain reporting times; requiring certain study and report; providing certain effective dates; requiring verification of receipt of certain information; maintaining current division of expenses; requiring training courses; providing for standardized information to participants; clarifying effective date; providing for noncodification; 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 631, as amended by Section 1, Chapter 331, O.S.L. 1995 (36 O.S. Supp. 1995, Section 631), is amended to read as follows:

Section 631. A. Said premium tax as collected shall be deposited by the thirtieth day of the month of receipt to the

credit of the General Revenue Fund subject only to the allocations thereof as otherwise provided by law.

B. That portion of premium tax assessed on the premiums of Medicaid recipients collected from the University of Oklahoma Managed Care Plan sponsored by the University of Oklahoma Health Sciences Center and from qualified health plans that contract with the Oklahoma Health Care Authority to provide managed care to participants in the State Medicaid program, as provided in Section 624 of this title, shall be paid by the thirtieth day of the month of receipt to the credit of the Medicaid Contingency Revolving Fund, created in Section ~~2 of this act~~ 1010.8 of Title 56 of the Oklahoma Statutes.

~~C. In the fiscal year ending June 30, 1989, the Insurance Commissioner shall transfer all monies in the Insurance Commissioner's Protest Fund to the General Revenue Fund of the State Treasury.~~

SECTION 2. AMENDATORY 74 O.S. 1991, Section 1303, as last amended by Section 1, Chapter 239, O.S.L. 1995 (74 O.S. Supp. 1995, Section 1303), is amended to read as follows:

Section 1303. For the purposes of and as used in this act:

(a) "Board" means the State and Education Employees Group Insurance Board as created by this act;

(b) "Employee" means those state employees, education employees and other eligible employees participating in the State and Education Employees Group Insurance Act;

(c) "Education Employee" means those employees other than adjunct professors employed by a state institution of higher education, in the service of an education entity who are members or are or will be eligible to become members of the Teachers' Retirement System of Oklahoma and who receive compensation for such service after the education entity begins to participate in the State and Education Employees Group Insurance Act and visiting faculty who are not eligible for membership in the Teachers' Retirement System of Oklahoma;

(d) "Adjunct Professor" means a person employed by an institution of higher education who is attached in a subordinate

or temporary capacity to the faculty or staff, and who is contracted to instruct in a given specific discipline;

(e) "Visiting Faculty" means a person employed by an institution of higher education who is not eligible for academic rank or tenure, other than an adjunct professor, and who is contracted to instruct in a given specific discipline generally not to exceed one (1) academic year;

(f) "Education Entity" means a school district, an area vocational-technical school district or an institution comprising The Oklahoma State System of Higher Education;

(g) "State Employee" means and includes each officer or employee in the service of the State of Oklahoma who, after January 1, 1966, received his compensation for service rendered to the State of Oklahoma on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of the state or who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Treasurer against appropriations made by the Legislature from any state fund or against trust funds held by the State Treasurer, who is employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours per year, and whose employment is not seasonal or temporary, except that a person elected by popular vote will be considered an employee during his tenure in office. Provided however, that employees who are otherwise eligible who are on approved leave without pay shall be eligible to continue coverage during such leave not to exceed twenty-four (24) months, as provided in the Merit Rules for Employment published by the Office of Personnel Management, from the date the employee goes on such leave provided the employee pays the full premiums due or persons who are drawing disability benefits under Section 1331 et seq. of this title or meet each and every requirement of the State Employees Disability Program shall be eligible to continue coverage provided the person pays the full premiums due;

(h) "Carrier" means the State of Oklahoma or a state designated Health Maintenance Organization (HMO). Such HMO shall be a federally qualified Health Maintenance Organization under 42 U.S.C., Section 300e et seq.;

(i) "Health Insurance Plan" means a self-insured plan by the State of Oklahoma for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan or prepaid medical plan(s) offered to employees as an alternative to the state-administered plan by federally qualified HMOs which have contracted with the state;

(j) "Life Insurance Plan" means a self-insured plan for the purpose of paying death and dismemberment benefits up to the maximum coverage provided by said plan;

(k) "Dental Insurance Plan" means a self-insured plan by the State of Oklahoma for the purpose of paying the cost of dental care up to the maximum coverage provided by said plan;

(l) "Other insurance" means any type of coverage other than basic hospital and medical benefits, major medical benefits, comprehensive benefits, life insurance benefits or dental insurance benefits, which the Board may be directed to offer;

(m) "Dependent" means an employee's spouse and any unmarried child (1) under the age of nineteen (19) years, regardless of residence, providing that the employee is primarily responsible for their support, including (a) an adopted child and (b) a stepchild or child who lives with the employee in a regular parent-child relationship, or (2) under the age of twenty-five (25) ~~and~~, who is dependent upon the employee for support, and who is enrolled as a full-time student at an accredited secondary school, college, university or institution of higher learning accredited by the State Department of Education, State Board of Vocational and Technical Education, State Regents for Higher Education or the Oklahoma Board of Private Schools, and (3) regardless of age who is incapable of self-support because of mental or physical incapacity that existed prior to his reaching the age of nineteen (19) years;

(n) "Comprehensive benefits" means benefits which reimburse the expense of hospital room and board, other hospital services, certain out-patient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, physicians' services provided by house and office calls, treatments administered in physicians' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care and such other benefits as may be determined by the Board. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by the Board; ~~and~~

(o) "Life insurance coverage" shall include a maximum amount of basic life insurance or benefit with or without a double indemnity provision and an amount of accidental death and dismemberment insurance or benefit per employee other than education employees to be provided by the State of Oklahoma, and the employee other than an education employee shall have the option to purchase additional life insurance or benefits on his life up to the amount provided by the plan. Such basic life insurance benefits, with or without double indemnity, and accidental death and dismemberment benefits shall not exclude coverage for death or dismemberment resulting from war, insurrection or riot. The Board may also extend dependent life insurance in an amount to be determined by the Board to each insured employee other than an education employee who elects to insure his eligible dependents. Premiums for the dependent life insurance shall be paid wholly by the employee other than an education employee;

(p) "Eligibility" means the determination:

(i) for purposes of supplemental life insurance: during the initial offering and during the annual open enrollment period in which an employee or his

dependents first elect to purchase supplemental life insurance or increase the amount of a prior election but not during an annual open enrollment period in which an employee or his dependents renew a prior election, whether an employee or his dependents meet the underwriting guidelines as adopted by the Board to protect the financial assets of the plan, and

(ii) for purposes of the self-insured health and dental insurance plans offered by the State of Oklahoma:

(A) during the initial offering, only whether an individual qualifies as an education employee or his dependent, a local government employee or his dependent, or a retiree or his dependent meeting the requirements in Section 1315 et seq. of this title, or whether the State Employees Benefits Council has certified a state employee or his dependent as meeting the requirements of Section 1363 of this title,

(B) during the annual open enrollment period in which an employee or his dependents first elect to purchase health and dental insurance from the self-insured health and dental insurance plans offered by the State of Oklahoma, having not elected coverage during the initial offering, whether preexisting conditions exist which shall be excluded to protect the financial assets of the plan for an employee or his dependents with regard to the health and dental plans. However, persons with existing coverage under other plans offered through the Oklahoma State and Education Employees Group Insurance Act, other previous comprehensive group benefits plans, persons who were eligible to use military medical facilities, or persons who were eligible to use Indian health services medical facilities shall

not be subject to a preexisting condition  
exclusion, and

(C) during the annual open enrollment period in  
which an employee or his dependents renew a  
prior election to participate in any of the  
health or dental plans offered by or through the  
Oklahoma State and Education Employees Group  
Insurance Act, the determination shall not  
consider whether the employee or his dependents  
meet the underwriting guidelines with regard to  
exclusion of coverage for preexisting conditions  
as adopted by the Board to protect the financial  
assets of the plan, and

(iii) for purposes of health and dental insurance, other  
than the self-insured plans offered by the State of  
Oklahoma, offered through the Oklahoma State and  
Education Employees Group Insurance Act to education  
employees, local government employees and retirees:  
during the initial offering and all annual open  
enrollment periods, whether an individual qualifies  
as an education employee or a dependent as defined  
in this section, whether an individual qualifies as  
a local government employee or his dependent as  
defined in this section, or whether an individual  
qualifies as a retiree or dependent meeting the  
requirements in Section 1315 et seq. of this title,  
or whether the State Employees Benefits Council has  
certified a state employee or his dependent as  
meeting the requirements of Section 1363 of this  
title;

(q) "Council" means the State Employees Benefits Council;

(r) "Initial offering" refers only to the employee and his or  
her dependents first opportunity to participate in the plans  
offered under this act; and

(s) "Local government employee" refers to employees of  
entities participating pursuant to Section 1315 of this title.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 1306, as last amended by Section 15, Chapter 10, O.S.L. 1993 (74 O.S. Supp. 1995, 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 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 Department of Central Services 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~~ Subject to the restrictions in subsection (p) of Section 1303 of this title, 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~~ 250.2 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. or with Health Maintenance Organizations licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes for consideration by employees as an alternative to the state self-insured health plan, and to~~ To transfer to the HMOs such

funds as may be approved for ~~an employee~~ participating employees and their dependents or retirees and their dependents electing HMO alternative services.

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

(k) For the fiscal year beginning July 1, 1992, to assess and collect a four percent (4%) fee from such contracted HMOs to offset the costs of administration, and to appropriate and pay to the Benefits Council Administration Fund an amount equal to fifty percent (50%) of ~~said~~ this fee within ten (10) days of collection;

(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~~ 250.2 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 Department of Central Services. 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 ~~March 1~~ two o'clock p.m. the second Wednesday in January 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 Service Bureau no later than ~~March 1~~ the second Wednesday in January of the previous fiscal year at which time such premiums and benefits shall take full and final effect for the next fiscal year;

(q) Before December 1 of each year the Board shall submit to the Director of the Office of State Finance a report outlining the financial condition for the previous fiscal year of all insurance plans offered by the Board. The report shall include a complete explanation of all reserve funds and the actuarial projections on the need for such reserves. The report 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. The Director of the Office of State Finance shall make written comment on the report and shall provide such comment, along with the report submitted by the Board, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chairman of the Oklahoma State Employees Benefits Council by January 15;

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

(s) 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;

(t) 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

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actuarially based and the cost for such supplemental plans shall be paid by the employee; ~~and~~

(u) 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.

~~(v) For the fiscal year beginning July 1, 1993, certain duties and responsibilities of the Board shall be transferred to the Oklahoma State Employees Benefits Council pursuant to the provisions of the Oklahoma State Employees Benefits Act. During the fiscal year beginning July 1, 1992, the Board shall cease activities related to the implementation of said transferred duties and responsibilities for the next fiscal year and implement all reasonable actions to ensure the effective and efficient~~

~~transfer of said duties and responsibilities to the Oklahoma State Employees Benefits Council.~~

SECTION 4. AMENDATORY 74 O.S. 1991, Section 1308, is amended to read as follows:

Section 1308. (1) Any Upon verification that a state employee has received information advising them of specific Health Maintenance Organization prepaid plans offered as an alternative to the state self-insured Health and Dental Insurance Plans, any employee other than an education employee eligible for membership in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan upon its effective date shall be enrolled in the plan unless he elects not to be enrolled within thirty (30) days of such effective dates. The ~~employee shall be~~ Oklahoma State Employees Group Insurance Board shall verify that education employees, local government employees, and retirees have also been advised of Health Maintenance Organization prepaid plans available as an alternative to the state self-insured Health and Dental Insurance Plan Plans.

Any insurance coordinator or benefits coordinator or any agency position similar in scope or job duties to an insurance or benefits coordinator who makes presentations to participating employees, education employees, or retirees regarding the self-insured plans offered by the State of Oklahoma and/or the Health Maintenance Organization prepaid plans available as an alternative to the state self-insured plans shall complete the training course offered by the State Employees Benefits Council designed for this purpose prior to making any such presentation.

All such presentations shall be based upon a standardized packet(s) of information prepared by the State Employees Benefits Council communicating and explaining the plans available to state employees, education employees, local government employees, and retirees. The Oklahoma State and Education Employees Group Insurance Board shall have input and shall provide advice to the State Employees Benefits Council regarding the preparation, design, and information contained in the standardized packet of information.

The cost of preparing the information packet distributed to each education employee, local government employee, and retiree shall continue to be paid by the Oklahoma State and Education Employees Group Insurance Board. The cost of preparing the information packet distributed to each state employee shall continue to be paid by the State Employees Benefits Council. The Oklahoma State and Education Employees Group Insurance Board shall continue to be responsible for distribution of such information packet to education employees, local government employees, and retirees. The State Employees Benefits Council shall continue to be responsible for distribution of such information packet to state employees.

The Board shall establish the procedure by which eligible employees not electing to be enrolled initially in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan may be subsequently enrolled.

(2) Any eligible employee other than an education employee who is employed after the effective dates of the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan or HMO plans approved by the ~~Board~~ State Employees Benefits Council may become enrolled on the first day of the second month of employment.

(3) Any person that becomes a participant in the State and Education Employees Group Insurance Act pursuant to subsection (2) or (3) of Section 17 of this act shall not be eligible to enroll in a HMO plan until the next option period after said enrollment, as set by the Board.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 1309, is amended to read as follows:

Section 1309. (1) Any eligible employee may elect to have his dependent or dependents covered by the Health Insurance Plan and Dental Insurance Plan or by any available Health Maintenance Organization (HMO) approved by the ~~Board~~ State Employees Benefits Council. Such election shall be made at the time the employee becomes enrolled in the Plan, under such procedures as the Board may establish. If dependent coverage is not elected at the time an employee becomes enrolled in the Plan, dependent coverage

cannot be elected until the next annual enrollment period as established by the Board. ~~Such subsequent election~~ Subsequent elections of dependent coverage shall be made ~~under such conditions as the Board may impose~~ only upon a determination of eligibility of the dependent as defined in subsection (p) of Section 1303 of this title.

(2) Any employee with dependent coverage, as provided in this section, who has a change in the number of his dependents may at the time of such change increase or decrease the number of dependents covered by the Health Insurance Plan and Dental Insurance Plan or approved HMO plans, under procedures established by the Board.

(3) Any employee who has no eligible dependents at the time he becomes enrolled may elect dependent coverage at the time his dependency status changes under procedures established by the Board.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 1310.1, is amended to read as follows:

Section 1310.1 (1) The premium for each employee of an education entity which is participating in the health and dental insurance plans offered by or through the State and Education Employees Group Insurance Act shall be paid as follows:

- (a) one-third (1/3) of the premium shall be paid by the education entity; and
- (b) two-thirds (2/3) of the premium shall be paid by the education employee, provided that the education entity may pay all or any portion of education employees' portion of premium.

(2) The premium for education entities that participate in the health and dental insurance plans offered by or through the State and Education Employees Group Insurance Act shall be the same as paid by state agencies for said plans.

(3) All education entities that participate in the insurance plans offered through the State and Education Employees Group Insurance Act shall forward the employer and employee premiums to

the Board no later than the tenth day of each month following the month for which payment is due.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 1321, is amended to read as follows:

Section 1321. The Board shall have the authority to determine all rates and life, dental and health benefits. All rates shall be compiled in a comprehensive Schedule of Benefits. The Schedule of Benefits shall be available for inspection during regular business hours at the office of the State and Education Employees Group Insurance Board. The Board further shall have the authority to adjust the rates and benefits as warranted, based on claim experience. The only publication or notice requirements that shall apply to the Schedule of Benefits, or subsequent adjustments, shall be those requirements provided in the Oklahoma Open Meeting Act; provided, however, that any rate or benefit change shall ~~not only~~ become effective ~~for at least thirty (30) days after any Board action~~ as provided in paragraph (p) of Section 1306 of this title. It is the intent of the Legislature that the benefits provided not include cosmetic dental procedures except for certain orthodontic procedures as adopted by the Board.

SECTION 8. AMENDATORY Section 3, Chapter 400, O.S.L. 1992, as last amended by Section 32, Chapter 2, O.S.L. 1994 (74 O.S. Supp. 1995, Section 1363), is amended to read as follows:

Section 1363. The following words and phrases as used in this act, unless a different meaning is clearly required by the context, shall have the following meanings:

1. "Authority" means the Oklahoma Health Care Authority;
2. "Basic plan" means the plan that provides the least amount of benefits each participant is required to purchase pursuant to the provisions of the plan. The basic plan shall include only health, dental, disability and life benefits;
3. "Benefit" means any of the benefits which may be purchased or is required to be purchased under the plan;
4. "Benefit plan" means the specific terms and conditions regarding a benefit which may be purchased under the plan, including the terms and conditions of any separate plan document,

group insurance policy or administrative services contract entered into by the Council;

5. "Benefit price" means the number of flexible benefit dollars needed to purchase a benefit under the plan;

6. "Board" means the State and Education Employees Group Insurance Board, as created by the State and Education Employees Group Insurance Act;

7. "Code" means the Internal Revenue Code of 1986, as amended, from time to time;

8. "Compensation" means the remuneration directly paid to a participating employee by a participating employer exclusive of overtime pay, and longevity pay, calculated prior to and without regard to adjustments arising out of an employee's participation in the plan authorized pursuant to this act, or amounts deferred under the tax sheltered income deferral plans as authorized by Section 1701 et seq. of this title;

9. "Council" means the Oklahoma State Employees Benefits Council, as created by this act;

10. "Default benefit" means any benefit a participant who fails to make a proper election under the plan shall be deemed to have purchased;

11. "Dependent" means a participant's spouse or any of his or her dependents as defined in Code Section 152 and regulations promulgated thereunder;

12. "Flexible benefit allowance" means the annual amounts credited by the participating employer for each participant for the purchase of benefits under the plan;

13. "Flexible benefit dollars" means the sum of the flexible benefit allowance and pay conversion dollars allocated by a participant pursuant to provisions of the plan;

14. "Participant" means any officer or employee of a participating employer who is a member of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment

requires at least one thousand (1,000) hours of work per year and whose salary and wage is equal to or greater than the hourly wage for state employees ~~as provided in Section 284 of this title~~, and any employee of a participating employer who is a member of the Teachers' Retirement System of Oklahoma;

15. "Participating employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution or statute that is a participating employer of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, but shall not include any county, county hospital, city or town, conservation district, any private or public trust in which a county, city or town participates and is the primary beneficiary, any school district or vocational-technical school district, or political subdivision of the state, but shall include the State Department of Education, the Oklahoma Department of Wildlife Conservation, the Oklahoma Employment Security Commission, the Teachers' Retirement System of Oklahoma and the State Department of Vocational and Technical Education. Provided, the term "participating employer" shall also mean the State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education upon agreement between the State Regents for Higher Education or the appropriate governing board of an institution under the authority of the State Regents for Higher Education and the Council;

16. "Pay conversion dollars" means amounts by which a participant elects to reduce his or her compensation to purchase benefits under the plan;

17. "Plan" means the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act as modified by the provisions of this act;

18. "Plan year" means the twelve-month period commencing on July 1 and ending on the following June 30;

19. "Salary Adjustment Agreement" means a written agreement between a participant and participating employer whereby the

employer agrees to adjust the salary of the participant by a stated amount or an amount equal to the cost of benefits selected under the plan and the participating employer agrees to contribute such amount to cover certain costs of the benefits selected by the participant to the Council; ~~and~~

20. "Termination" means the termination of a participant's employment as an employee of a participating employer, whether by reasons of discharge, voluntary termination, retirement, death or reduction-in-force;

21. "Carrier" means the State of Oklahoma or a state designated Health Maintenance Organization (HMO). Such HMO shall be a federally qualified Health Maintenance Organization under 42 U.S.C., Section 300 et seq. or shall be licensed by the State Department of Health pursuant to Sections 2501 through 2512 of Title 63 of the Oklahoma Statutes;

22. "Health insurance plan" means a self-insured plan offered by the State and Education Employees Group Insurance Board for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan or a prepaid plan offered by a Health Maintenance Organization to participants or retirees as an alternative to the self-insured plan administered by the state or any Medicare supplement policy approved by the Insurance Commissioner;

23. "Dental insurance plan" means a self-insured plan offered by the State and Education Employees Group Insurance Board for the purpose of paying the cost of dental care up to the maximum coverage provided by said plan or qualified dental plans offered to participants as an alternative to the self-insured plan administered by the state; and

24. "Eligibility" for the Oklahoma Employees Benefits Act means only the determination of whether an individual qualifies as a participant or a dependent as defined in this section. Specifically excluded from this definition of eligibility and the authority of the Oklahoma Employees Benefits Council is the Oklahoma State and Education Employees Group Insurance Board's authority to provide for preexisting conditions for the self-

insured health and dental insurance and supplemental life plans offered by the State of Oklahoma as restricted in Section 1303 of this title.

SECTION 9. AMENDATORY Section 5, Chapter 400, O.S.L. 1992, as amended by Section 10, Chapter 359, O.S.L. 1993 (74 O.S. Supp. 1995, Section 1365), is amended to read as follows:

Section 1365. A. The Oklahoma State Employees Benefits Council shall have the following duties, responsibilities and authority with respect to the administration of the plan:

1. To construe and interpret the plan, and decide all questions of eligibility in accordance with ~~this act~~ Section 1361 et seq. of this title and the Code;
2. To select those benefits which shall be made available to participants under the plan, according to ~~this act~~ Section 1361 et seq. of this title, and other applicable laws and regulations;
3. To retain or employ qualified agencies, persons or entities to design, develop, communicate, implement or administer the plan;
4. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;
5. To prepare ~~and distribute~~ a standardized packet(s) of information communicating and explaining the plan plans available to participating employers and participants; provided that neither the, including state employees, education employees, local government employees, and retirees.

The Oklahoma State and Education Employees Group Insurance Board shall have input and shall provide advice to the State Employees Benefits Council regarding the preparation, design, and information contained in the standardized packet of information. The cost of preparing the information packet distributed to each education employee, local government employee, and retiree shall continue to be paid by the Oklahoma State and Education Employees Group Insurance Board. The cost of preparing the information packet distributed to each state employee shall continue to be paid by the State Employees Benefits Council. The State Employees Benefits Council shall continue to be responsible for distribution

of the information packet to state employees. The Oklahoma State and Education Employees Group Insurance Board shall continue to be responsible for distribution of the information packet to education employees, local governmental employees, and retirees.

The state employees shall be advised of Health Maintenance Organization prepaid plans available as an alternative to the state self-insured Health and Dental Plans by the State Employees Benefits Council. Any insurance coordinator or benefits coordinator or any agency position similar in scope or job duties to an insurance or benefits coordinator, who makes presentations to state employees, education employees, local government employees, or retirees regarding the self-insured plans offered by the State of Oklahoma and/or Health Maintenance Organization prepaid plans available as an alternative to the state self-insured plans shall complete the training course offered by the State Employees Benefits Council designed for this purpose prior to making any such presentation. All such presentations shall be based upon the standardized packet of information described in this subsection.

Except as otherwise provided in this paragraph for the distribution of the information packet to education employees, local government employees, and retirees by the Board, neither the Board, health maintenance organizations, nor other third-party insurance vendors shall be directly or indirectly involved in the distribution of said communicated information to participating employers and participants;

6. To receive from participating employers and participants such information as shall be necessary for the proper administration of the plan, and any of the benefits offered thereunder;

7. To furnish the participating employers and participants such annual reports with respect to the administration of the plan as are reasonable and appropriate;

8. To keep reports of benefit elections, claims and disbursements for claims under the plan;

9. To appoint an executive director who shall serve at the pleasure of the Council. The executive director shall employ or retain such persons in accordance with this act and the requirements of other applicable law, including but not limited to actuaries and certified public accountants, as he or she deems appropriate to perform such duties as may from time to time be required under this act and to render advice upon request with regard to any matters arising under the plan subject to the approval of the Council. The executive director shall have not less than seven (7) years of group insurance administration experience on a senior managerial level or not less than three (3) years of flexible benefits experience on a senior managerial level. Any actuary or certified public accountant employed or retained under contract by the Council shall have not less than three (3) years' experience in group insurance or employee benefits administration. The compensation of all persons employed or retained by the Council and all other expenses of the Council shall be paid at such rates and in such amounts as the Council shall approve, subject to the provisions of applicable law;

10. ~~For plan year beginning July 1, 1993, and all future plan years, to~~ To continue to select and contract with federally qualified health maintenance organizations under the provisions of 42 U.S.C., Section 300e et seq. or with health maintenance organizations licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes for consideration by ~~participants~~ state employees, education employees, local government employees, and retirees as an alternative to the health plans offered by the Board, and to transfer to the health maintenance organizations such funds as may be approved for a participant electing health maintenance organization alternative services. HMO contracts shall provide for a risk adjustment factor for adverse selection, that may occur as determined by the Council, based on generally accepted actuarial principles;

11. To require vendors offering coverage through the Council, including the Board, to provide such enrollment and claims data as is determined by the Council;

12. To purchase any insurance deemed necessary for providing benefits under the plan, provided that the only indemnity plan selected by the Council shall be the indemnity plan offered by the Board, and to transfer to the Board such funds as may be approved for a participant electing a benefit plan offered by the Board;

13. To communicate deferred compensation programs as provided in Section 1701 of this title;

14. ~~For the plan year beginning July 1, 1993, and all future plan years, to~~ To assess and collect reasonable fees from the Board, and from such contracted health maintenance organizations and third party insurance vendors to offset the costs of administration as determined by the Council. The Council shall have the authority to transfer income received pursuant to this subsection to the Board for services provided by the Board;

15. To accept, modify or reject elections under the plan in accordance with ~~this act~~ Section 1361 et seq. of this title and the Code;

16. To promulgate election and claim forms to be used by participants; and

17. To take all steps deemed necessary to properly administer the plan in accordance with this act and the requirements of other applicable law.

B. The Council members shall discharge their duties as fiduciaries with respect to the participants and their dependents of the plan, and all fiduciaries shall be subject to the following definitions and provisions:

1. A person or organization is a fiduciary with respect to the Council to the extent that the person or organization:

- a. exercises any discretionary authority or discretionary control respecting administration or management of the Council,
- b. exercises any authority or control respecting disposition of the assets of the Council,

- c. renders advice for a fee or other compensation, direct or indirect, with respect to any participant or dependent benefits, monies or other property of the Council, or has any authority or responsibility to do so, or
- d. has any discretionary authority or discretionary responsibility in the administration of the Council;

2. The Council may purchase insurance for its fiduciaries or for itself to cover potential liability or losses occurring by reason of the act or omission of a fiduciary, but any such insurance purchased by the Council must permit recourse by the insurer against a fiduciary in the case of a breach of fiduciary obligation by such fiduciary. Nothing in this subsection shall be construed as requiring the purchase of any insurance;

3. Except for a breach of fiduciary obligation, a Council member shall not be individually or personally responsible for any action of the Council;

4. Any person who is a fiduciary with respect to the Council shall be entitled to rely on representations made by participants, participating employers, third party administrators and beneficiaries with respect to age and other personal facts concerning a participant or beneficiaries, unless said fiduciary knows said representations to be false;

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the Council and the plan solely in the interest of the participants and beneficiaries of the plan according to the terms hereof, for the exclusive purpose of providing benefits to participants and their beneficiaries, with the care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and

6. The duties and responsibilities allocated to each fiduciary by ~~this act~~ Section 1361 et seq. of this title or by the Council shall be the several and not joint responsibility of each,

and no fiduciary shall be liable for the act or omission of any other fiduciary unless:

- a. by his or her failure to properly administer his or her specific responsibility he or she enabled such other person or organization to commit a breach of fiduciary responsibility, or
- b. he or she knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person or organization, knowing such act or omission to be a breach, or
- c. having knowledge of the breach of another person or organization, he or she fails to make reasonable efforts under the circumstances to remedy said breach.

SECTION 10. The Oklahoma State and Education Employees Group Insurance Board shall study the feasibility of offering state-owned managed care plans as an alternative to the state self-funded indemnity plans. The study shall also consider the feasibility of offering state-owned Medicare risk-sharing plans as an alternative to the state Medicare supplement plan. Consideration should be given to such matters as gross and net costs, administrative costs, benefits, utilization of benefits, adverse selection, and any other factors which significantly affect the desirability of operating such alternative plans. At the conclusion of this study, but in no event later than January 1, 1997, the Board shall issue a report of its findings and recommendations to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 11. NONCODIFICATION The provisions of Section 10 of this act shall not be codified in the Oklahoma Statutes.

SECTION 12. This act shall become effective July 1, 1996.

SECTION 13. 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.

45-2-2917

SLM