

ENGROSSED HOUSE
BILL NO. 2934

By: Glover of the House
and
Stipe of the Senate

An Act relating to insurance; amending 36 O.S. 1991, Sections 6054, as amended by Section 19, Chapter 342, O.S.L. 1994, 6055, as last amended by Section 1, Chapter 356, O.S.L. 1995, 6056 and 6057 (36 O.S. Supp. 1995, Sections 6054 and 6055), which relate to the Health Care Freedom of Choice Act; adding definitions; modifying certain definition; clarifying application of freedom of choice provision; modifying certain exclusions; authorizing certain deductible and copayment provisions; providing for direct compensation of practitioner under certain conditions; stating conditions; clarifying certain language related to practitioner compensation; clarifying language relating to the freedom to choose certain facilities; clarifying provisions relating to void policy provisions; requiring certain policies to be brought into compliance; providing method of compliance; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 6054, as amended by Section 19, Chapter 342, O.S.L. 1994 (36 O.S. Supp. 1995, Section 6054), is amended to read as follows:

Section 6054. As used in the Health Care Freedom of Choice Act, ~~"practitioner":~~

1. "Accident and health insurance policy" or "policy" means any policy, certificate, contract, agreement or other instrument that provides accident and health insurance, as defined in Section 703 of this title, to any person in this state;

2. "Hospital" means any facility as defined in Section 1-701 of Title 63 of the Oklahoma Statutes;

3. "Insured" means any person entitled to reimbursement for expenses of health care services and procedures under an accident and health insurance policy issued by an insurer;

4. "Insurer" means any entity that provides an accident and health insurance policy in this state, including but not limited to a licensed insurance company, a not-for-profit hospital service and/or medical indemnity corporation, a fraternal benefit society, a multiple employer welfare arrangement or any other entity subject to regulation by the Insurance Commissioner; and

5. "Practitioner" means a any person holding a valid license to practice medicine and surgery, ~~osteopathy~~ osteopathic medicine, chiropractic, ~~podiatry~~ podiatric medicine, optometry or dentistry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 6055, as last amended by Section 1, Chapter 356, O.S.L. 1995 (36 O.S. Supp. 1995, Section 6055), is amended to read as follows:

Section 6055. A. ~~For~~ Under any ~~individual, group, blanket or franchise~~ accident and health insurance 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 the insured's parent or guardian if the insured is a minor, ~~provided that and if the practitioner is duly~~ services and procedures fall within the licensed under the laws scope of practice of this state to perform such services or procedures approved by the appropriate board of examiners practitioner providing the service.

B. ~~A~~ An accident and health insurance policy, contract or agreement, as described in subsection A of this section, may exclude:

1. Exclude or limit coverage for a particular illness, disease, injury or condition; but, except for such exclusions or limits, shall not exclude or limit particular services or procedures that can be provided for the diagnosis and treatment of a covered illness, disease, injury or condition, if such exclusion or limitation has the effect of discriminating against a particular class of practitioner. However, such services and procedures, in order to be a covered medical expense, must:

- a. be medically necessary, ~~must~~
- b. be of proven efficacy, and ~~must~~
- c. fall within the licensed scope of practice of the practitioner providing same; and

2. Provide for the application of deductibles and copayment provisions, when equally applied to all covered charges for services and procedures that can be provided by any practitioner for the diagnosis and treatment of a covered illness, disease, injury or condition. This provision shall not be construed to prohibit differences in deductibles and copayment provisions between

participating network practitioners and nonparticipating network practitioners.

C. A Benefits available under an accident and health insurance policy, at the option of the insured, shall be assignable to a practitioner or hospital, as defined in Section 1-701 of Title 63 of the Oklahoma Statutes, who has provided services and procedures which are covered under the policy. A practitioner or hospital shall be compensated directly by an insurer for services and procedures which have been provided when benefits are assigned and on file and claims are processed the following conditions are met:

1. Benefits available under a policy have been assigned in writing by an insured to the practitioner or hospital;

2. A copy of the assignment has been provided by the practitioner or hospital to the insurer;

3. A claim has been submitted by the practitioner or hospital to the insurer on a uniform health insurance claim form prescribed by the Insurance Commissioner pursuant to Section 6581 of this title and a duplicate; and

4. A copy of the bill claim has been sent provided by the practitioner or hospital to the insured.

D. The provisions of ~~this~~ subsection C of this section shall not apply to:

1. Any ~~PPO~~ preferred provider organization (PPO) contract, as defined by generally accepted industry standards; or

2. Any statewide provider network which:

a. provides that a practitioner or hospital who joins the provider network shall be compensated directly by the insurer,

b. does not have any terms or conditions which have the effect of discriminating against a particular class of practitioner, and

c. allows any hospital or practitioner, except a practitioner who has a prior felony conviction, to become a network provider if said hospital or practitioner is willing to comply with the terms and conditions of a standard network provider contract.

~~D. E.~~ A practitioner shall be equally compensated for ~~such~~ covered services and procedures provided to an insured on the basis of charges prevailing in the same ~~community~~ geographical area or in similar sized communities for similar services and procedures provided to similarly ill or injured persons regardless of the branch of the healing arts to which the practitioner may belong, ~~provided such profession or~~ if:

1. The practitioner does not authorize or permit false and fraudulent advertising ~~or such profession or~~ regarding the services and procedures provided by the practitioner; and

2. The practitioner does not aid or abet the insured to violate the terms of the ~~contract or agreement~~ policy.

~~E. F.~~ Nothing in ~~this section~~ the Health Care Freedom of Choice Act shall prohibit a practitioner from contracting with ~~a payer, payers or insurers~~ an insurer for alternative levels or methods of payment.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 6056, is amended to read as follows:

Section 6056. Services and procedures covered ~~by the terms of Section 6055 of this title,~~ under an accident and health insurance policy may be performed at any hospital where ~~such~~ a practitioner is authorized to practice, doctor's office or clinic, at the choice of the insured, or ~~his~~ the insured's parent or guardian if the insured is a minor, and the practitioner who is ~~performing such~~ providing the services and procedures.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 6057, is amended to read as follows:

Section 6057. A. Any provision, exclusion or limitation denying in an accident and health insurance policy which:

1. Denies an insured, or his the insured's parent or guardian if the insured is a minor, the free choice of any practitioner or the use of any hospital where the practitioner is authorized to practice, doctor's office or clinic; or

2. Otherwise conflicts with any provision of the Health Care Freedom of Choice Act;

shall, to the extent of the denial or conflict, be void, but such avoidance shall not affect the validity of the other provisions of the policy, ~~plan or agreement~~.

B. Any policy form presently approved for use containing any provision, exclusion or limitation determined by the Insurance Commissioner to be in conflict with any provision of the Health Care Freedom of Choice Act shall be brought into compliance with the act by the filing of a rider, an endorsement, or a new or revised policy form approved by the Commissioner.

SECTION 5. This act shall become effective November 1, 1996.

Passed the House of Representatives the 29th day of February, 1996.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate