

ENROLLED HOUSE
BILL NO. 2982

By: Thomas of the House

and

Cain of the Senate

An Act relating to public health and safety; amending Section 3, Chapter 332, O.S.L. 1993, Section 12, Chapter 332, O.S.L. 1993, Section 13, Chapter 332, O.S.L. 1993 and Section 5, Chapter 332, O.S.L. 1993, as last amended by Section 7, Chapter 204, O.S.L. 1995 (63 O.S. Supp. 1995, Sections 5005, 5014, 5015 and 5007), which relate to the Oklahoma Health Care Authority Board; amending 68 O.S. 1991, Section 2357.31, as amended by Section 3, Chapter 355, O.S.L. 1995 (68 O.S. Supp. 1995, Section 2357.31), which relates to tax credits for state-certified basic health benefits plans; modifying length of terms; specifying certain termination dates; specifying qualifications; providing for quorum and official action; providing for reimbursement; abolishing the Oklahoma Basic Health Benefits Board; providing for transfer of powers, duties, responsibilities, funds, property, records, personnel and outstanding financial obligations and encumbrances; providing for coordination; providing for transfer of powers, programs and functions; providing for validity of certain contracts; removing certain references; providing for limitation of tax credit for certain benefit plans; repealing 36 O.S. 1991, Sections 6501, 6502, 6503, 6504, as last amended by Section 7 of Enrolled House Bill No. 2428 of the 2nd Session of the 45th Oklahoma Legislature, 6505, 6506 and 6507 (36 O.S. Supp. 1995, Section 6504), which relate to the Oklahoma Basic Health Benefits Board; and providing an effective date.

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

SECTION 1. AMENDATORY Section 5, Chapter 332, O.S.L. 1993, as last amended by Section 7, Chapter 204, O.S.L. 1995 (63 O.S. Supp. 1995, Section 5007), is amended to read as follows:

Section 5007. A. There is hereby created the Oklahoma Health Care Authority Board. The Oklahoma Health Care Authority Board shall be composed of seven (7) appointed members. ~~On and after the effective date of this act, as the terms of the initially appointed members expire, the Board shall be composed of seven appointed members who shall serve for terms of four (4) years and shall be appointed as follows:~~

~~1. Two members shall be appointed by the President Pro Tempore of the Senate;~~

~~2. Two members shall be appointed by the Speaker of the House of Representatives; and~~

~~3. Three members shall be appointed by the Governor. One of the members appointed by the Governor shall be a consumer who shall have no financial or professional interest in medical care, health care services, health care delivery, health care finance, health insurance or managed health care.~~

~~B. Members appointed pursuant to this paragraph, with the exception of the consumer member, shall include persons having experience in medical care, health care services, health care delivery, health care finance, health insurance and managed health care. In making the appointments, the appointing authority shall also give consideration to urban, rural, gender and minority representation~~ Terms of office for appointments made to fill unexpired four-year terms which began prior to the effective date of this act shall not change. The length of the terms of office for appointments made for new terms which begin on or after the effective date of this act shall be governed by the following:

1. One member appointed by the Governor shall serve a term which expires September 1, 2000;

2. One member appointed by the Governor shall serve a term which expires September 1, 2004;

3. One member appointed by the Governor shall serve a term which expires September 1, 2005;

4. One member appointed by the Speaker of the House of Representatives shall serve a term which expires September 1, 2002;

5. One member appointed by the Speaker of the House of Representatives shall serve a term which expires September 1, 2006;

6. One member appointed by the President Pro Tempore of the Senate shall serve a term which expires September 1, 2001; and

7. One member appointed by the President Pro Tempore of the Senate shall serve a term which expires September 1, 2003;

Initial appointments made for new terms that begin on or after the effective date of this act may encompass less than seven (7) years; however, subsequent terms of office shall be for seven (7) years.

~~C. As 1. Thereafter, as the terms of office of members appointed before July 1, 1995, pursuant to subsection B of this section expire, appointments made on or after July 1, 1995, shall be subject to the following requirements:~~

- ~~1. One~~ a. one member appointed by the Governor shall be a resident of the First Congressional District~~†~~
- ~~2. One~~ b. one member appointed by the President Pro Tempore of the Senate shall be a resident of the Second Congressional District~~†~~
- ~~3. One~~ c. one member appointed by the President Pro Tempore of the Senate shall be a resident of the Third Congressional District~~†~~
- ~~4. One~~ d. one member appointed by the Speaker of the House of Representatives shall be a resident of the Fourth Congressional District~~†~~
- ~~5. One~~ e. one member appointed by the Speaker of the House of Representatives shall be a resident of the Fifth Congressional District~~†~~
- ~~6. One~~ f. one member appointed by the Governor shall be a resident of the Sixth Congressional District~~†~~ and
- ~~7. The~~ g. one consumer member appointed by the Governor shall be appointed at large. The consumer member shall have no financial or professional interest in medical care services, health care services, health care delivery, health care finance, health insurance or managed health care services; and

2. Any vacancy in the Board shall be filled for the remainder of the term in the same manner as the appointments made pursuant to this subsection.

D. Members appointed pursuant to this section, with the exception of the at-large consumer member appointed by the Governor, shall include persons having experience in medical care services, health care services, health care delivery, health care finance, health insurance and managed health care services.

E. In making any of the appointments required by this section, the appointing authority shall give consideration to urban, rural, gender and minority representation. Any vacancy in the Board shall be filled in the same manner as the appointments made pursuant to this subsection.

F. Members shall continue to serve until their successors are appointed.

G. 1. A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action. Official action of the Board shall have a favorable vote by a majority of the members present.

2. Members appointed pursuant to this section shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

H. On and after the effective date of this act July 1, 1994, any subsequently appointed administrator of the Authority shall be appointed by the Board. The administrator shall have the training and experience necessary for the administration of the Authority, as determined by the Board, including, but not limited to, prior experience in the administration of managed health care. The administrator shall serve at the pleasure of the Board.

~~E. I.~~ I. The Board shall have the power and duty to:

1. Establish the policies of the Oklahoma Health Care Authority;

2. Appoint the ~~Administrator~~ administrator of the Authority;

3. Adopt and promulgate rules as necessary and appropriate to carry out the duties and responsibilities of the Authority. The Board shall be the rulemaking body for the Authority; and

4. Adopt, publish and submit by January 1 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives appropriate administrative policies and the business plan for that year. All actions governed by ~~said~~ such administrative policies and annual business plan shall be examined annually in an independent audit.

~~F. 1. A vacancy in a position shall be filled in the same manner as provided in subsection A of this section.~~

~~2. A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action. Official action of the Board must have a favorable vote by a majority of the members present.~~

~~3. Members appointed pursuant to subsection A of this section shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.~~

~~G. J.~~ J. The Board and the Authority shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.

SECTION 2. AMENDATORY Section 3, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1995, Section 5005), is amended to read as follows:

Section 5005. For purposes of the Oklahoma Health Care Authority Act:

1. "Administrator" means the chief executive officer of the Authority;
2. "Authority" means the Oklahoma Health Care Authority;
3. "Board" means the Oklahoma Health Care Authority Board;
4. "Health services provider" means health insurance carriers, pre-paid health plans, hospitals, physicians and other health care professionals, and other entities who contract with the Authority for the delivery of health care services to state and education employees and persons covered by the state Medicaid program; and
5. "State-purchased health care" or "state-subsidized health care" means medical and health care, pharmaceuticals and medical equipment purchased with or supported by state and federal funds through the Oklahoma Health Care Authority, ~~the Oklahoma Basic Health Benefits Board~~, the Department of Mental Health and Substance Abuse Services, the State Department of Health, the Department of Human Services, the Department of Corrections, the Department of Veterans Affairs, other state agencies administering state-purchased or state-subsidized health care programs, the Oklahoma State Regents for Higher Education, the State Board of Education and local school districts.

SECTION 3. AMENDATORY Section 12, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1995, Section 5014), is amended to read as follows:

Section 5014. A. 1. On and after July 1, 1994, the Oklahoma Health Care Authority shall assume the duties, powers and responsibilities of the Division of Health Care Information of the State Department of Health and enforcement of the Oklahoma Health Care Information System Act.

~~B. 2.~~ The following state agencies are directed to cooperate with the Oklahoma Health Care Authority to establish appropriate health care information systems in their programs:

- a. the State Department of Health,
- b. the Department of Mental Health and Substance Abuse Services,
- c. the Department of Human Services,
- d. the Office of the Insurance Commissioner,
- e. the State Insurance Fund, ~~the Oklahoma Basic Health Benefits Board~~,
- f. the Department of Veterans Affairs,
- g. the ~~Physicians~~ Physician Manpower Training Commission,
- h. the Department of Corrections,
- i. the State Board of Education, and
- j. the Oklahoma State Regents for Higher Education.

3. The Authority, in conjunction with these agencies, shall determine:

- ~~1.~~ a. descriptions of health care services for information purposes;
- ~~2.~~ b. health care data elements common to all agencies;
- ~~3.~~ c. health care data elements unique to each agency; and
- ~~4.~~ d. a mechanism for program and budget review of health care data.

B. 1. On and after July 1, 1996, the Oklahoma Basic Health Benefits Board is hereby abolished, and the powers, duties and responsibilities exercised by such Board pursuant to law are hereby transferred to the Oklahoma Health Care Authority Board. All unexpended funds, property, records, personnel and any outstanding financial obligations and encumbrances of such Board are hereby transferred to the Oklahoma Health Care Authority Board.

2. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, outstanding financial obligations or encumbrances provided for in this section.

C. 1. With regard to any program or function of the Oklahoma Basic Health Benefits Board transferred to the Oklahoma Health Care Authority Board, any rules, contracts, procedures, or agreements relating to such programs or functions are hereby transferred to the Oklahoma Health Care Authority Board for the purpose of maintaining and operating such programs and functions pursuant to law.

2. Unexpired contracts entered into by the Oklahoma Basic Health Benefits Board prior to July 1, 1995, shall remain valid for stated terms and conditions until otherwise terminated by the terms of the contract, by breach of the contract or as otherwise provided by law.

SECTION 4. AMENDATORY Section 13, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1995, Section 5015), is amended to read as follows:

Section 5015. The Oklahoma Health Care Authority shall review state-purchased and state-subsidized health care programs and health care regulatory agencies, including, but not limited to, medical services within the Department of Mental Health and Substance Abuse Services, the Department of Veterans Affairs, the Department of Human Services, the State Department of Health, the Oklahoma Medical Center, the State Education and Employees Group Insurance Board, ~~the Oklahoma Basic Health Benefits Board,~~ and any other state-purchased and state-subsidized health care programs as deemed appropriate by the administrator, and submit to the Legislature, no later than December 1, 1995, an initial report including, but not limited to:

1. A description of the respective roles of these programs and agencies regarding health care cost containment;
2. A plan to increase the combined efficiency of these programs and agencies to control costs and maintain or improve access to quality care;
3. Methods to ensure coordination between these programs and agencies and the Authority;
4. An analysis of the real and potential impacts of cost shifting; and
5. Recommendations regarding structural changes in the state's current health care delivery system.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 2357.31, as amended by Section 3, Chapter 355, O.S.L. 1995 (68 O.S. Supp. 1995, Section 2357.31), is amended to read as follows:

Section 2357.31 A. As used in this section:

1. "Eligible employer" means a corporation, partnership or proprietorship which:
 - a. has done business in this state for at least one (1) year,
 - b. has not provided group health insurance within the fifteen (15) months preceding the offer to purchase group health insurance which meets the requirements of this section to at least seventy-five percent (75%) of its employees who are residents of this state and work an average of twenty-four (24) hours or more a week for said employer,
 - c. offers the state-certified, basic health benefits plan to all eligible employees who worked an average of twenty-four (24) hours or more a week during the calendar quarter preceding the purchase of the policy, and

- d. pays fifty percent (50%) or more of the full cost of the portion of the premium attributable to the employee for which the employer is claiming credit;
- 2. "Eligible employee" means an employee, proprietor or partner of the employer claiming the credit who:
 - a. is a resident of this state,
 - b. works an average of twenty-four (24) hours a week or more for the employer, and
 - c. was not covered by a group health insurance policy or plan offered by the same employer within the fifteen (15) months preceding the offer to purchase health insurance which meets the requirements of this section; and

3. "State-certified, basic health benefits plan" means the basic health benefits plan developed and approved by the Oklahoma Basic Health Benefits Board prior to July 1, 1995.

B. 1. For tax years beginning after December 31, 1990, there shall be allowed to an eligible employer a credit against the tax imposed by Section 2355 of this title for premiums paid on behalf of each eligible employee who elects to participate in the state-certified, basic health benefits plan and meets the requirements of this section. The credit shall be in the amount of Fifteen Dollars (\$15.00) a month for each eligible employee and shall be allowed for two (2) consecutive tax years. Provided, if the tax liability of an employer pursuant to Section 2355 of this title is less than the credit to which the employer is entitled pursuant to this section, the Oklahoma Tax Commission shall pay a refund to the employer. The refund shall equal the difference between the amount of taxes owed, after any other credits or exemptions to which the employer is entitled have been applied to the tax liability, and the credit to which the employer is entitled pursuant to this section for the tax year.

2. Tax credits or refunds may not be granted pursuant to the provisions of this section to an employer who, prior to July 1, 1995, was not covered under a state-certified, basic health benefits plan.

C. The credit shall not be granted unless the eligible employer certifies to the Oklahoma Tax Commission that each employee for which the credit is claimed is participating in the state-certified, basic health benefits plan.

D. The Oklahoma Tax Commission shall develop and issue appropriate forms and instructions to enable eligible employers to claim the tax credit. The Commission shall promulgate rules to facilitate the implementation of this section.

SECTION 6. REPEALER 36 O.S. 1991, Sections 6501, 6502, 6503, 6504, as last amended by Section 7 of Enrolled House Bill No. 2428 of the 2nd Session of the 45th Oklahoma Legislature, 6505, 6506 and 6507 (36 O.S. Supp. 1995, Section 6504), are hereby repealed.

SECTION 7. This act shall become effective September 1, 1996.

Passed the House of Representatives the 22nd day of April, 1996.

Speaker of the House of
Representatives

Passed the Senate the 3rd day of April, 1996.

President of the Senate