

SHORT TITLE: Public health and safety; licensing of health maintenance organizations; recodification; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1211

By: Snyder

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 2503, 2504, 2507, 2508, 2509, 2511 and 2512, as amended by Sections 3, 4, 7, 8, 9, 11 and 12, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Sections 2503, 2504, 2507, 2508, 2509, 2511 and 2512), which relate to health maintenance organizations; modifying statutory references; transferring responsibility for licensing of health maintenance organizations from the State Department of Health and the State Commissioner of Health to the Insurance Department and the Insurance Commissioner; expanding time period for review of certain application; providing for recodification; providing for an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 2503, as amended by Section 3, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Section 2503), is amended to read as follows:

Section 2503. As used in Section 2501 et seq. of this title:

1. "Health maintenance organization" means any organization, subject to the provisions of Section ~~2501~~ 2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes, organized pursuant to the laws of this state, or the laws of another state or the District of Columbia, which provides, either directly or through arrangements with others, comprehensive health services to members enrolled with the organization on a fixed prepayment basis;

2. "Enrollee" means a person who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been

entered into, with a health maintenance organization or prepaid health plan for comprehensive health services;

3. "Person" includes but is not limited to individuals, partnerships, associations, corporations, or other public or private legal entities;

4. "Agent" means a person associated with a health maintenance organization and who engages in solicitation;

5. "Department" means the ~~Oklahoma State~~ Insurance Department of ~~Health~~ the State of Oklahoma;

6. "Comprehensive health services" includes, but is not limited to, allopathic, osteopathic, chiropractic, podiatric, optometric, psychological, outpatient diagnostic and treatment, inpatient hospital, short-term rehabilitation and physical therapy, medically necessary emergency, short-term outpatient mental health, substance abuse diagnostic and medical treatment, home health, and preventive health services; and

7. a. "Prepaid health plan" means any organization, subject to the provisions of Section ~~2501~~ 2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes, organized pursuant to the laws of this state, or the laws of another state or the District of Columbia, which provides, either directly, or through arrangements with others, or through reimbursement of claims, comprehensive health services to members enrolled with the plan on a fixed prepayment basis.

b. As used in this paragraph, "reimbursement of claims" means that a prepaid health plan may make provisions for reimbursements to members who receive covered services through noncontracting providers and may make provisions for payments to noncontracting providers

for covered services rendered to members. A prepaid health plan may impose supplementary deductibles and copayments for covered services rendered through noncontracting providers in order to cover the costs of such services and to encourage members to use contracting providers.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2504, as amended by Section 4, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Section 2504), is amended to read as follows:

Section 2504. A. Upon compliance with the provisions of Section ~~2504~~ 2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes, any organization, association, or corporation, public or private, may be licensed by the ~~State~~ Insurance Department ~~of Health~~ to organize, operate and maintain a health maintenance organization or a prepaid health plan for its duly enrolled members and their dependents in this state. Prior to the issuing of any license to a health maintenance organization or a prepaid health plan, the ~~State Department of Health~~ shall ~~forward one copy of the application to the Insurance Commissioner, who~~ shall be required within ~~thirty (30)~~ ninety (90) days to review ~~said~~ the health maintenance organization's application with regard to the provisions in the application for fiscal responsibility and fiducial integrity, and ~~make recommendations to the Department. If a response is not received from the Insurance Commissioner within thirty (30) days,~~ ~~the Department may proceed to make~~ a determination upon the application as submitted. The Insurance Commissioner, after notice and hearing, may promulgate such reasonable rules as are necessary to provide for the licensing of agents. The ~~Department~~ Commissioner shall annually determine if each health maintenance organization or prepaid health plan has complied with all requirements set forth in

this section and in any rules promulgated pursuant to Section ~~2501~~
2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes.

Every health maintenance organization and prepaid health plan may be relicensed, annually, upon compliance with the provisions of Section ~~2501~~ 2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes and any ~~regulations~~ rules promulgated pursuant to the provisions of ~~Section 2501 et seq. of this title~~ this section. Enrollment in any such organization or plan shall be voluntary only.

B. A license from the ~~Department~~ Commissioner shall not be required for any prepaid health plan ~~duy~~ already licensed as an insurer by the Insurance Commissioner pursuant to Title 36 of the Oklahoma Statutes. Nothing in this subsection shall be construed to prevent a person from electing to apply for and obtain separate licenses as an insurer under Title 36 of the Oklahoma Statutes and as a prepaid health plan under Section ~~2501~~ 2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes.

C. Each application or reapplication for a license or annual license renewal pursuant to the provisions of this section shall be accompanied by an application fee of Five Thousand Dollars (\$5,000.00).

SECTION 3. AMENDATORY 63 O.S. 1991, Section 2507, as amended by Section 7, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Section 2507), is amended to read as follows:

Section 2507. A. Comprehensive health services as herein provided may be furnished to enrollees of health maintenance organizations outside this state only in accordance with the laws of the state or of the United States which govern the provisions of such services in the state or place concerned; provided, that an enrollee may be reimbursed directly for emergency health care expenses incurred by ~~him~~ the enrollee while temporarily outside the

state, when such expenses would have been provided under the enrollee's program had ~~he~~ the enrollee been within the state. Such reimbursement made by a health maintenance organization shall not be construed as an indemnity and no health maintenance organization shall be an insurer or make any contract of insurance of any kind whatsoever.

B. 1. The ~~State Board of Health~~ Insurance Department shall provide by rule the requirements for claims reimbursements by a prepaid health plan for health care services rendered by professionals or facilities not covered under an agreement with the managed care organization, whether those providers are located inside or outside the state.

2. The ~~State Board of Health~~ Insurance Department also shall provide by rule for geographic service area variations which remit prepaid health plans to enroll persons who desire to become members but who do not reside in an area where contracting primary and emergency care providers are available and accessible within reasonable promptness.

3. Prepaid health plans may reimburse out-of-state providers for services received by Title XIX, 42 U.S.C.A., Section 1596 et seq., enrollees at the medicaid fee-for-service rates in effect in this state or the rates in effect in the state in which care was rendered, whichever are lower.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 2508, as amended by Section 8, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Section 2508), is amended to read as follows:

Section 2508. A. The ~~State Department of Health~~ Insurance Department shall:

1. Fix and collect license fees for the operation of health maintenance organizations and prepaid health plans;

2. Enforce the provisions of ~~this act~~ Section 2692.1 et seq. of Title 36 of the Oklahoma Statutes;

3. Promulgate rules ~~and regulations~~ as necessary to effectuate the purposes of this act, to protect the public and to ensure the sound, proper and efficient operation of health maintenance organizations and prepaid health plans in this state; and

4. Have authority to revoke any license for violation of any of the rules or any violation of law or for other good cause.

B. All actions of the Department shall be subject to the provisions of the ~~Oklahoma~~ Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

C. License fees collected shall be deposited in the ~~Public Health Special Fund~~ appropriate fund of the State Treasury, as authorized by the Insurance Commissioner.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 2509, as amended by Section 9, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Section 2509), is amended to read as follows:

Section 2509. Each health maintenance organization and prepaid health plan shall furnish a surety bond in an amount satisfactory to the ~~State Department of Health~~ Insurance Department, or deposit with the Department, cash or securities acceptable to the Department in at least the same amount as a guarantee that the obligations to the enrollees will be performed. The Department may waive this requirement whenever satisfied that the assets of the organization or plan or its contracts with insurers, governments or other entities are sufficient to reasonably assure the performance of its obligations.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 2511, as amended by Section 11, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Section 2511), is amended to read as follows:

Section 2511. No person may proceed to operate a health maintenance organization or prepaid health plan or imply directly or indirectly that it is authorized to operate a health maintenance organization or prepaid health plan, unless that person first applies for and is granted a license by the Insurance Department under Section ~~2501~~ 2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes. Any person who operates a health maintenance organization or prepaid health plan without first having obtained a license as required herein, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punishable by payment ~~of~~ of a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). If the ~~State~~ Insurance Department ~~of Health~~, through one of its agents or representatives, notifies in writing, through certified mail, the person who has unlawfully commenced the operation of a health maintenance organization or prepaid health plan to cease and desist, then each day that such person continues such offering or development shall be a separate offense. If any person continues to operate a health maintenance organization or prepaid health plan after the issuance of a cease and desist order, the Department shall seek an injunction to prohibit the continued offering or development.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 2512, as amended by Section 12, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Section 2512), is amended to read as follows:

Section 2512. Any person who has been determined by the State Insurance Department ~~of Health~~ to have violated any provision of Section ~~2501~~ 2692.1 et seq. of ~~this title~~ Title 36 of the Oklahoma Statutes or any rule promulgated or order issued pursuant to the provisions of ~~said~~ such sections, may be liable for an administrative penalty of not more than One Hundred Dollars

(\$100.00) for each day that ~~said~~ such violation continues. The maximum administrative penalty shall not exceed Twenty Thousand Dollars (\$20,000.00) for any related series of violations.

SECTION 8. RECODIFICATION 63 O.S. 1991, Sections 2501, 2502, 2505, 2506 and 2510, as amended by Sections 1, 2, 5, 6 and 10, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1995, Sections 2501, 2502, 2505, 2506 and 2510), shall be recodified as Sections 2692.1, 2692.2, 2692.5, 2692.6 and 2692.10 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 9. RECODIFICATION Section 2, Chapter 95, O.S.L. 1995, as renumbered by Section 9, Chapter 204, O.S.L. 1995 (63 O.S. Supp. 1995, Section 2508.1), shall be recodified as Section 2692.8a of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 10. RECODIFICATION 63 O.S. 1991, Sections 2503, 2504, 2507, 2508, 2509, 2511 and 2512, as amended by Sections 1, 2, 3, 4, 5, 6 and 7 of this act, shall be recodified as Sections 2692.3, 2692.4, 2692.6, 2692.8, 2692.9, 2692.11 and 2692.12 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 11. This act shall become effective July 1, 1996.

SECTION 12. 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.