

ENROLLED HOUSE
BILL NO. 2963

By: Glover and Seikel of the
House

and

Morgan and Cain of the
Senate

An Act relating to administrative procedures; amending 63 O.S. 1991, Section 2504, as last amended by Section 1, Chapter 165, O.S.L. 1997 (63 O.S. Supp. 1997, Section 2504), which relates to licensure of health maintenance organizations and prepaid health plans; making exceptions to certain prohibition for hearing; amending 75 O.S. 1991, Section 316, as amended by Section 23, Chapter 206, O.S.L. 1997 (75 O.S. Supp. 1997, Section 316), which relates to individual proceedings; clarifying procedures for disqualification of hearing examiner or agency member; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 2504, as last amended by Section 1, Chapter 165, O.S.L. 1997 (63 O.S. Supp. 1997, Section 2504), is amended to read as follows:

Section 2504. A. 1. Upon compliance with the provisions of Section 2501 et seq. of this title, any organization, association, or corporation, public or private, may be licensed by the State 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.

2. a. Prior to the ~~issuing~~ issuance 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) days to review said application with regard to the provisions in the application for fiscal responsibility and fiducial integrity, and make recommendations to the Department.

~~3.~~ b. 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.

c. The Insurance Commissioner, after notice and hearing, may promulgate such reasonable rules as are necessary to provide for the licensing of agents.

3. Notwithstanding the provisions of subsection A of Section 314 of Title 75 of the Oklahoma Statutes, prior to the issuance of a license to a health maintenance organization or prepaid health plan, the State Health Department shall conduct an individual proceeding

pursuant to the Administrative Procedures Act and rules of the Board regarding the issuance of the license.

B. 1. The Department provisions of subsection A of Section 314 of Title 75 of the Oklahoma Statutes notwithstanding, the State Health Department shall annually conduct an individual proceeding to 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 et seq. of this title. Every health maintenance organization and prepaid health plan may be relicensed, annually, upon compliance with the provisions of Section 2501 et seq. of this title and any rules promulgated pursuant thereto.

2. A health maintenance organization or prepaid health plan shall be deemed in noncompliance and, after thirty (30) days' notice and failure to take corrective action, shall not be relicensed by the Department if its:

- a. application for license renewal,
- b. evidence of coverage,
- c. standards and procedures for the selection of providers, or

d. any other documents filed with the Department, contain definitions of words or terms that are contrary to or inconsistent with the definitions of words or terms appearing in Section 2503 of this title or appearing in the rules promulgated pursuant to Section 2501 et seq. of this title.

C. Enrollment in any such organization or plan shall be voluntary only.

D. A license from the Department shall not be required for any prepaid health plan duly 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 et seq. of this title.

E. 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 2. AMENDATORY 75 O.S. 1991, Section 316, as amended by Section 23, Chapter 206, O.S.L. 1997 (75 O.S. Supp. 1997, Section 316), is amended to read as follows:

Section 316. A hearing examiner or agency member shall withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a hearing examiner or agency member, on the ground of his inability to give a fair and impartial hearing, by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the administrative head of the agency, or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing examiner, the agency shall assign another in his stead or shall conduct the hearing itself. Upon the disqualification of a member of an agency, the agency shall proceed with the proceeding if a quorum remains. If a quorum no longer exists, by virtue of the member's disqualification, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding. In further

action, after the disqualification of a member of an agency, the provisions of Section ~~11~~ 311 of this ~~act~~ title shall apply.

SECTION 3. This act shall become effective November 1, 1998.

Passed the House of Representatives the 1st day of April, 1998.

Speaker of the House of
Representatives

Passed the Senate the 24th day of March, 1998.

President of the Senate