

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2964

By: Glover

AS INTRODUCED

An Act relating to workers' compensation; amending Section 24, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994, as last amended by Section 4, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1997, Section 14.2), which relates to the Workers' Compensation Act; modifying employer's duty to provide notice of certain rights; requiring certain information to be provided on a certain form; transferring the duty to provide certain procedures and forms to the Workers' Compensation Court; requiring certain information on the form; modifying the terms of compliance for certain physicians; and providing an effective date.

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

SECTION 1. AMENDATORY Section 24, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994, as last amended by Section 4, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1997, Section 14.2), is amended to read as follows:

Section 14.2 A. If a self-insured employer, group self-insurance association plan, an employer's workers' compensation

insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund, has contracted with a workplace medical plan that is certified by the Commissioner of Health as provided in Section 14.3 of this title, an employee shall exercise the election for which provision is made in subsection C of Section 14 of this title. If a self-insured employer approved by the Workers' Compensation Court has in force a collective bargaining agreement with its employees, the certified workplace medical plan shall be selected with the approval of both parties signatory to the collective bargaining agreement. Notwithstanding any other provision of law, those employees who are subject to such certified workplace medical plan shall receive medical treatment in the manner prescribed by the plan.

B. Qualified employers shall, when a contract of employment is made ~~or on~~ and prior to the annual open enrollment date for the insurer's certified workplace medical plan, provide the employee with written notice of and the opportunity to ~~enroll in the plan or to indicate the employee's desire to select a physician pursuant to paragraph 1 of~~ make the election for which provision is made in subsection C of Section 14 of this title. The written notice must be given by the employer in the form and manner prescribed by the Administrator. The election must be made ~~in writing~~ on the form specified in subsection C of this section and must be signed by the employee:

1. Within thirty (30) days of employment;
2. Within thirty (30) days after an employee receives notice that a self-insured employer, group self-insurance association plan, or an employer's workers' compensation insurance carrier ~~implements~~ has implemented a certified workplace medical plan; or

3. On or prior to the annual open enrollment date of the certified workplace medical plan.

~~B. C.~~ 1. If an employee elects not to enroll in the certified workplace medical plan, the employee shall, on the election form, provide a list of physicians who meet the requirements set forth in paragraph 1 of subsection C of Section 14 of this title. The employee's list of physicians may be updated on the election form made available to the employee prior to the annual open enrollment date of the certified workplace medical plan.

~~2. Procedures and forms for enrollment shall be provided by the self-insured employer, group self-insurance association plan, insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund and the form for making the election for which provision is made in subsection C of Section 14 of this title shall be prescribed by the Administrator; however, the election form shall:~~

- a. be provided to the employee at least thirty (30) days prior to the date when the employee must make the election,
- b. fully inform the employee of the employee's right to participate or not to participate in the certified workplace medical plan and the consequences of such election insofar as the availability of medical care is concerned,
- c. fully inform the employee that the employee cannot be discharged by the employer because the employee has in good faith elected to participate or not to participate in the certified workplace medical plan, and

d. provide adequate space for the employee to list physicians, by category of physician as specified in subsection D of Section 14 of this title, who meet the requirements set forth in paragraph 1 of subsection C of Section 14 of this title.

D. The burden for notification of an employee's enrollment in a certified workplace medical plan shall be the employer's. After enrollment, an employee shall seek treatment under the certified workplace medical plan for one (1) calendar year. The employee may opt out of the plan, effective on the next annual open enrollment date only if the employee is changing to a physician selected pursuant to the requirements of paragraph 1 of subsection C of Section 14 of this title. However, if the date of the injury falls under a period of enrollment in a certified workplace medical plan, treatment must be rendered under the certified workplace medical plan treatment contract.

E. The provisions of this section shall not preclude ~~the~~:

1. An employee from petitioning the Workers' Compensation Court or the Administrator of the Workers' Compensation Court for a change of attending physician within the certified workplace medical plan or for a change of physician outside the plan, if the physician agrees to comply with ~~all the rules, terms and conditions~~ the fee-for-service payment provisions of the certified workplace medical plan. ~~Nor shall the provisions of this section preclude an; or~~

2. An employee from seeking emergency medical treatment as provided in Section 14 of this title.

F. The provisions of this section shall not apply to treatment received by an employee for an accepted accidental injury or occupational disease for which treatment began prior to November 4, 1994.

SECTION 2. This act shall become effective November 1, 1998.

46-2-9279

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