ENGROSSED SENATE
BILL NO. 1408

By: Monson of the Senate

and

Askins of the House

[insurance - State and Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council - naming advisory council - equalize health insurance premiums -

effective date]

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 1304, as last amended by Section 1, Chapter 317, O.S.L. 1996 (74 O.S. Supp. 1999, Section 1304), is amended to read as follows:

Section 1304. (1) There is hereby created the State and Education Employees Group Insurance Board which shall consist of ~~eight (8)~~ eleven (11) members as follows: The State Insurance Commissioner, or his or her designee who shall be an employee of the Insurance Department, the Director of the Office of State Finance, two members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, ~~and~~ two members appointed by the President Pro Tempore of the Senate, the chair of the Employees Group Insurance Program Advisory Council, or his or her designee who shall be a member of the Advisory Council, and one member of the Oklahoma Public Employees Association appointed by the Board of Directors of the Oklahoma Public Employees Association and one member of the Oklahoma Education Association appointed by the Board of Directors of the Oklahoma Education Association. The appointed members shall each receive compensation of Five Hundred

Dollars ($500.00) per month. Appointed members who fail to attend a regularly scheduled monthly meeting of the Board shall not receive the related monthly compensation. In the event an appointed member does not attend at least seventy-five percent (75%) of the regularly scheduled monthly meetings of the Board during a calendar year, the appointing authority may remove said member. A member may also be removed for any other cause as provided by law. A vacancy in the office of the appointed member shall be filled for the unexpired term of office in the same manner as the original appointment.

(2) The initial term of office of the members appointed by the Governor shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(3) The initial term of office of one of the members appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1992. The initial term of office of the other member appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1994. Thereafter, the term of office of the members appointed by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be four (4) years.

(4) <u>The initial term of office of the member appointed by the Oklahoma Public Employees Association and the member appointed by the Oklahoma Education Association shall be for the period ending June 30, 2004. Thereafter, the term of office of the member appointed by the Oklahoma Public Employees Association and the member appointed by the Oklahoma Education Association shall be four (4) years.</u>

(5) ~~The~~ Except for the members appointed by the Board of Directors of the Oklahoma Public Employees Association and the Oklahoma Education Association the appointed members shall:

(a) have demonstrated professional experience in investment or funds management, public funds management, public or private group health or pension fund management, or group health insurance management; or

(b) be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

(c) be licensed by the Oklahoma State Board of Public Accountancy to practice in this state as a public accountant or a certified public accountant.

In making appointments that conform to the requirements of this subsection, at least one (1) but not more than three (3) members shall be appointed each from paragraphs (b) and (c) of this subsection by the combined appointing authorities.

~~(5)~~ (6) No appointed member of the State and Education Employees Group Insurance Board shall be a lobbyist registered in this state as provided by law, a health care provider, a plan participant, be employed, directly or indirectly, by any insurance company or carrier, or health care provider, or be employed directly or indirectly, by any firm under contract to the Board for any goods or services whatsoever. Provided however, if an appointed member of the Board was a plan participant of any insurance plans offered by the Board at the time he or she was appointed to serve as a member of the Board, and the appointed member of the Board forfeited participation in the insurance plans in order to serve on the Board, the member of the Board may resume participation in said insurance plans upon leaving the Board.

~~(6)~~ (7) The State and Education Employees Group Insurance Board shall not be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title.

~~(7)~~ (8) The Attorney General shall furnish the Board with legal representation.

~~(8)~~ (9) The Court Administrator shall designate grievance panel members as shall be necessary. The members of the grievance panel shall consist of two attorneys licensed to practice law in this state and one state licensed health care professional or health care administrator who has at least three (3) years practical experience, has had or has admitting privileges to a State of Oklahoma hospital, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in their career. The state health care professional shall be appointed by the Governor.

~~(9)~~ (10) The Board shall at its first meeting elect one of its members as chairman. He shall preside over meetings of the Board and perform such other duties as may be required by the Board.

~~(10)~~ (11) The Board shall elect another member to serve as vice-chairman who shall perform the duties of the chairman in the absence of the latter or upon his inability or refusal to act.

~~(11)~~ (12) The Board shall also elect a secretary who shall keep minutes of all meetings and who shall certify to actions of the Board.

~~(12)~~ (13) The Board shall adopt rules requiring payment for medical and dental services and treatment rendered by duly licensed hospitals, physicians and dentists. Unless the Board has otherwise contracted with the out-of-state health care provider, the Board shall reimburse for medical services and treatment rendered and charged by an out-of-state health care provider at ~~the~~ least at the same percentage level as the network percentage level of the fee schedule established by the State and Education Employees Group Insurance Board if the insured employee was referred to the out-of-state health care provider by a physician or it was an emergency situation and the out-of-state provider was the closest in proximity to the place of residence of the employee which offers the type of

health care services needed. For purposes of this paragraph, health care providers shall include but not be limited to physicians, dentists, hospitals and special care facilities.

~~(13)~~ (14) The State and Education Employees Group Insurance Board may enter into a contract with out-of-state providers in connection with any PPO or hospital or medical network plan which shall include, but not be limited to, special care facilities and hospitals outside the borders of the State of Oklahoma. The contract for out-of-state providers shall be identical to the in-state provider contracts.

~~(14)~~ (15) The Board shall contract with the Oklahoma Medical Center and the George Nigh Rehabilitation Institute for the provision of their services, on the same basis as other hospitals and providers in the state network, provided however the Board shall have discretion to reduce the co-payment and the deductibles up to fifty percent (50%) at the Oklahoma Medical Center and the George Nigh Rehabilitation Institute, and their medical staffs. For purposes of this subsection, the phrase "Oklahoma Medical Center" shall be limited to the Oklahoma Memorial Hospital, the Children's Hospital of Oklahoma, the O'Donaghue Rehabilitation Institute, and the Child Study Center.

~~(15)~~ (16) The Administrator shall appoint an advisory committee to the State and Education Employees Group Insurance Board. The ~~advisory~~ committee shall be known as the Employees Group Insurance Program Advisory Council. The Employees Group Insurance Program Advisory Council shall consist of seven (7) members. Of the members appointed to the ~~advisory committee~~ Employees Group Insurance Program Advisory Council, at least one member must be an active state employee, at least one member must be a retired state employee, at least one member must be an active education employee, at least one member must be a retired education employee, and at

least one member must be either an active county employee or a retired county employee.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 1306, as last amended by Section 1, Chapter 403, O.S.L. 1999 (74 O.S. Supp. 1999, Section 1306), is amended to read as follows:

Section 1306. The State and Education Employees Group Insurance Board shall administer and manage the group insurance plans and the flexible benefits plan and, subject to the provisions of the State and Education Employees Group Insurance Act, Section 1301 et seq. and the State Employees Flexible Benefits Act, Section 1341 et seq. of this title, shall have the following powers and duties:

1. The preparation of specifications for such insurance plans as the Board may be directed to offer;

2. The authority and duty to request bids through the Purchasing Division of the Department of Central Services for a contract to be the claims administrator for all or any part of such insurance and benefit plans as the Board may be directed to offer;

3. The determination of the methods of claims administration under such insurance and benefit plans as the Board may be directed to offer;

4. The determination of the eligibility of employees and their dependents to participate in each of the Group Insurance Plans and in such other insurance and benefit plans as the Board may be directed to offer and the eligibility of employees other than education employees to participate in the Life Insurance Plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;

5. The determination of the amount of employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;

6. The establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints

by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense;

7. The continuing study of the operation of such insurance and benefit plans as the Board may be directed to offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;

8. The administration of the Health, Dental and Life Insurance Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the Education Employees Group Insurance Reserve Fund;

9. The auditing of the claims paid pursuant to the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

10. a. To select and contract with federally qualified Health Maintenance Organizations under the provisions of 42

U.S.C., Section 300e et seq. or with Health Maintenance Organizations licensed by the Department of Health pursuant to Sections 2501 through 2510 of Title 63 of the Oklahoma Statutes for consideration by employees as an alternative to the state self-insured health plan, and to transfer to the HMOs such funds as may be approved for an employee electing HMO alternative services. Such HMOs may offer coverage through a point-of-service plan, subject to the guidelines established by the Board.

b. Benefit plan contracts with the State and Education Employees Group Insurance Board, Health Maintenance Organizations, and other third-party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Board, based on generally accepted actuarial principles. The risk adjustment factor shall include all members participating in the plans offered by the State and Education Employees Group Insurance Board. The Oklahoma State Employees Benefits Council shall contract with an actuary to provide the above actuarial services, and shall be reimbursed for these contract expenses by the Board.

c. Effective for the plan year beginning July 1, 1997, and ~~for each year thereafter~~ through the plan year beginning July 1, 2000, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age.

d. Effective for the plan year beginning July 1, 2001, and for each plan year thereafter, HMOs, self-insured organizations, and prepaid plans shall set the premiums for health insurance to be the same for active employees and for retirees under sixty-five (65) years of age;

11. For the fiscal year beginning July 1, 1992, to assess and collect a four percent (4%) fee from such contracted HMOs to offset the costs of administration, and to appropriate and pay to the Benefits Council Administration Fund an amount equal to fifty percent (50%) of said fee within ten (10) days of collection;

12. To contract for reinsurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board. Provided, however, that the Board shall not offer a health plan which is owned or operated by the state and which utilizes a capitated payment plan for providers which uses a primary care physician as a gatekeeper to any specialty care provided by physician-specialists, unless specifically authorized by the Legislature;

13. The Board, pursuant to the provisions of Section 250 et seq. of Title 75 of the Oklahoma Statutes, shall adopt such rules consistent with the provisions of the State and Education Employees Group Insurance Act as it deems necessary to carry out its statutory duties and responsibilities;

14. The Board shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board may be directed to offer. No contract for claims administration services shall be made unless such contract has been offered for bids through the Purchasing Division of the Department of Central Services. The Board shall contract with a private insurance carrier or other experienced claims administrator to process claims with software that is normally used for its customers;

15. The Board shall contract for utilization review services with a company experienced in utilization review, data base evaluation, market research, and planning and performance of the health insurance plan;

16. The Board shall approve the amount of employee premiums and dependent premiums for such insurance plans as the Board shall be directed to offer for each fiscal year no later than the bid submission date for health maintenance organizations set by the Oklahoma State Employees Benefits Council, which, for the plan year beginning July 1, 2001, shall be set no later than the third Friday of December of the previous fiscal year. For the next plan year, beginning January 1, 2002, and for each year thereafter, the submission date shall be set no later than the third Friday of June of the previous year. Except as otherwise provided for in Section 1321 of this title, the Board shall not have the authority to adjust the premium rates after approval. The Board shall submit notice of the amount of employee premiums and dependent premiums along with an actuarial projection of the upcoming fiscal year's enrollment, employee contributions, employer contributions, investment earnings, paid claims, internal expenses, external expenses and changes in liabilities to the Director of the Office of State Finance and the Director of the Legislative Service Bureau no later than March 1 of the previous fiscal year.

Effective for the plan year beginning July 1, ~~1997~~ 2000, ~~and for each year thereafter~~ in setting health insurance premiums for active employees and retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age. Effective for the plan year beginning July 1, 2001, and for each plan year thereafter, the Board shall set the premiums for health insurance to be the same for

active employees and for retirees under sixty-five (65) years of age;

17. Before December 1 of each year the Board shall submit to the Director of the Office of State Finance a report outlining the financial condition for the previous fiscal year of all insurance plans offered by the Board. The report shall include a complete explanation of all reserve funds and the actuarial projections on the need for such reserves. The report shall include and disclose an estimate of the future trend of medical costs, the impact from HMO enrollment, antiselection, changes in law, and other contingencies that could impact the financial status of the plan. The Director of the Office of State Finance shall make written comment on the report and shall provide such comment, along with the report submitted by the Board, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chair of the Oklahoma State Employees Benefits Council by January 15;

18. The Board shall establish a prescription drug card network ~~for the fiscal year beginning July 1, 1990~~. The Board shall offer mail-order prescription plans. Any discounts provided by such mail-order prescription plans shall be provided to members utilizing the mail-order prescription services;

19. The Board shall have the authority to intercept monies owing to plan participants from other state agencies, when those participants in turn, owe money to the Board. The Board shall be required to adopt rules and regulations ensuring the participants due process of law;

20. The Board is authorized to make available to eligible employees supplemental health care benefit plans to include but not be limited to long-term care, deductible reduction plans and employee co-payment reinsurance. Premiums for said plans shall be

actuarially based and the cost for such supplemental plans shall be paid by the employee; ~~and~~

21. Effective for the plan year beginning July 1, 2001, and for each plan year thereafter, the Board shall provide a maximum calendar year benefit for Class A, Class B, and Class C benefits of the State Dental Plan in an amount no less than Two Thousand Dollars ($2,000) and a maximum lifetime benefit of no less than Two Thousand Dollars ($2,000) for Class D benefits of the State Dental Plan; and

22. There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on State and Education Employees Group Insurance Benefits, which Joint Committee shall consist of three members of the Senate to be appointed by the President Pro Tempore thereof and three members of the House of Representatives to be appointed by the Speaker thereof. The Chair and Vice Chair of the Joint Committee shall be appointed from the membership thereof by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, one of whom shall be a member of the Senate and the other shall be a member of the House of Representatives. At the beginning of the first regular session of each Legislature, starting in 1991, the Chair shall be from the Senate; thereafter the chairship shall alternate every two (2) years between the Senate and the House of Representatives.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall function as a committee of the State Legislature when the Legislature is in session and when the Legislature is not in session. Each appointed member of said committee shall serve until his or her successor is appointed.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall serve as a liaison with the State and Education Employees Group Insurance Board regarding advice, guidance, policy, management, operations, plans, programs and fiscal

needs of said Board. Said Board shall not be bound by any action of the Joint Committee.

SECTION 3. AMENDATORY Section 11, Chapter 400, O.S.L. 1992, as last amended by Section 8, Chapter 255, O.S.L. 1999 (74 O.S. Supp. 1999, Section 1371), is amended to read as follows:

Section 1371. A. All participants must purchase at least the basic plan. On or before January 1 of the plan year beginning July 1, 2001, and July 1 of any plan year beginning after January 1, 2002, the Oklahoma State Employees Benefits Council shall design the basic plan for the next plan year to insure that the basic plan provides adequate coverage to all participants. All benefit plans, whether offered by the State and Education Employees Group Insurance Board, a health maintenance organization or other vendors shall meet the minimum requirements set by the Council for the basic plan.

B. The Board shall offer health, disability, life and dental coverage to all participants and their dependents. For health, dental, disability and life coverage, the Board shall offer plans at the basic benefit level established by the Council, and in addition, may offer benefit plans that provide an enhanced level of benefits. The Board shall offer a high deductible health benefit plan which, after meeting the higher deductible amount, shall have the same coinsurance and benefit limits as the basic benefit plan but with a higher deductible amount and with copayments which are no greater than the basic benefit plan. The Board shall be responsible for determining the plan design and the benefit price for the plans that they offer. ~~In~~ Effective for the plan year beginning July 1, 2000, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age. Effective for the plan year beginning July 1, 2001, and thereafter, the Board shall set the premiums for health

insurance to be the same for active employees and for retirees under sixty-five (65) years of age.

The benefits price for the basic plan during a plan year shall not exceed the flexible benefits allowance for the same plan year. The Council shall approve the plan designs to assure that they meet the minimum benefit levels.

Nothing in this subsection shall be construed as prohibiting the Board from offering additional medical plans, provided that any medical plan offered to participants shall meet or exceed the benefits provided in the medical portion of the basic plan.

C. A participant may elect the high deductible health benefit plan offered by the Board and any excess flexible benefit allowance remaining after payment of the higher deductible benefit price may be deposited in a medical saving account established in accordance with the Medical ~~Saving~~ Savings Account Act. Any excess flexible benefit allowance deposited in a medical saving account shall not be considered taxable compensation. For purposes of this subsection, "excess flexible benefit allowance" means the remaining flexible benefit allowance amount after deduction of the premium price of the higher deductible benefit plan, the premium price of the selected dental plan and the benefit price for life and disability benefits.

D. In lieu of electing any of the preceding medical benefit plans, a participant may elect medical coverage by any health maintenance organization made available to participants by the Council. The benefit price of any health maintenance organization shall be determined on a competitive bid basis. Contracts for said plans shall not be subject to the provisions of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title. The Council shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded for flexible benefits plans. All plans offered by health maintenance organizations meeting the bid requirements as determined by the Council shall be

accepted. The Council shall have the authority to reject the bid or restrict enrollment in any health maintenance organization for which the Council determines the benefit price to be excessive. The Council shall have the authority to reject any plan that does not meet the bid requirements. All bidders shall submit along with their bid a notarized, sworn statement as provided by Section 85.22 of this title. ~~In~~ Effective for the plan year beginning July 1, 2000, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age. Effective for the plan year beginning July 1, 2001, and for each plan year thereafter, HMOs, self-insured organizations, and prepaid plans shall set the premiums for health insurance to be the same for active employees and for retirees under sixty-five (65) years of age.

E. Nothing in this section shall be construed as prohibiting the Council from offering additional qualified benefit plans or currently taxable benefit plans.

F. Each employee of a participating employer who meets the eligibility requirements for participation in the flexible benefits plan shall make an annual election of benefits under the plan during an enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the Council, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year.

Each such employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the Council shall prescribe. Any such employee who fails to make a proper election under the plan shall, nevertheless,

be a participant in the plan and shall be deemed to have purchased the default benefits described in this section.

G. The Council shall prescribe the forms that participants will be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

H. Any participant who, in the first year for which he or she is eligible to participate in the plan, fails to make a proper election under the plan in conformance with the procedures set forth in this section or as prescribed by the Council shall be deemed automatically to have purchased the default benefits. The default benefits shall be the same as the basic plan benefits. Any participant who, after having participated in the plan during the previous plan year, fails to make a proper election under the plan in conformance with the procedures set forth in this section or prescribed by the Council, shall be deemed automatically to have purchased the same benefits which the participant purchased in the immediately preceding plan year, except that the participant shall not be deemed to have elected coverage under the health care reimbursement account plan or the dependent care reimbursement account plan.

I. Benefit plan contracts with the Board, health maintenance organizations, and other third party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Council, based on generally accepted actuarial principles.

SECTION 4. REPEALER 74 O.S. 1991, Section 1306, as last amended by Section 1, Chapter 255, O.S.L. 1999 (74 O.S. Supp. 1999, Section 1306), is hereby repealed.

SECTION 5. This act shall become effective July 1, 2000.

Passed the Senate the 1st day of March, 2000.

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President of the Senate

Passed the House of Representatives the ____ day of _____, 2000.

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Speaker of the House of Representatives