

CS for EHB 1745

1 THE STATE SENATE  
2 Tuesday, March 30, 1999

3 Committee Substitute for  
4 ENGROSSED  
5 House Bill No. 1745

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1745 - By: FRAME  
7 of the House and STIPE of the Senate.

8 An Act relating to insurance; amending 36 O.S. 1991, Section  
9 1254, as renumbered by Section 20, Chapter 342, O.S.L. 1994,  
10 and as last amended by Section 52, Chapter 418, O.S.L. 1997  
11 (36 O.S. Supp. 1998, Section 1250.5), which relates to the  
12 Unfair Claims Settlement Practices Act; adding to list of  
13 acts which constitute an unfair claim settlement practice;  
14 and providing an effective date.

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

16 SECTION 1. AMENDATORY 36 O.S. 1991, Section 1254, as  
17 renumbered by Section 20, Chapter 342, O.S.L. 1994, and as last  
18 amended by Section 52, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1998,  
19 Section 1250.5), is amended to read as follows:

20 Section 1250.5 Any of the following acts by an insurer, if  
21 committed in violation of Section 1250.3 of this title, constitutes  
22 an unfair claim settlement practice:

- 23 1. Failing to fully disclose to first party claimants,  
24 benefits, coverages, or other provisions of any insurance policy or  
25 insurance contract when such benefits, coverages or other provisions  
26 are pertinent to a claim;

1           2. Knowingly misrepresenting to claimants pertinent facts or  
2 policy provisions relating to coverages at issue;

3           3. Failing to adopt and implement reasonable standards for  
4 prompt investigations of claims arising under its insurance policies  
5 or insurance contracts;

6           4. Not attempting in good faith to effectuate prompt, fair and  
7 equitable settlement of claims submitted in which liability has  
8 become reasonably clear;

9           5. Failing to comply with the provisions of Section 1219 of  
10 this title;

11          6. Denying a claim for failure to exhibit the property without  
12 proof of demand and unfounded refusal by a claimant to do so;

13          7. Except where there is a time limit specified in the policy,  
14 making statements, written or otherwise, which require a claimant to  
15 give written notice of loss or proof of loss within a specified time  
16 limit and which seek to relieve the company of its obligations if  
17 such a time limit is not complied with unless the failure to comply  
18 with such time limit prejudices an insurer's rights;

19          8. Requesting a claimant to sign a release that extends beyond  
20 the subject matter that gave rise to the claim payment;

21          9. Issuing checks or drafts in partial settlement of a loss or  
22 claim under a specified coverage which contain language which  
23 releases an insurer or its insured from its total liability;

1        10. Denying payment to a claimant on the grounds that services,  
2 procedures, or supplies provided by a treating physician or a  
3 hospital were not medically necessary unless the health insurer or  
4 administrator, as defined in Section 1442 of this title, first  
5 obtains an opinion from any provider of health care licensed by law  
6 and preceded by a medical examination or claim review, to the effect  
7 that the services, procedures or supplies for which payment is being  
8 denied were not medically necessary. Upon written request of a  
9 claimant, treating physician, or hospital, such opinion shall be set  
10 forth in a written report, prepared and signed by the reviewing  
11 physician.

12 The report shall detail which specific services, procedures, or  
13 supplies were not medically necessary, in the opinion of the  
14 reviewing physician, and an explanation of that conclusion. A copy  
15 of each report of a reviewing physician shall be mailed by the  
16 health insurer, or administrator, postage prepaid, to the claimant,  
17 treating physician or hospital requesting same within fifteen (15)  
18 days after receipt of such written request. As used in this  
19 paragraph, "physician" means a person holding a valid license to  
20 practice medicine and surgery, osteopathic medicine, podiatric  
21 medicine, dentistry, chiropractic, or optometry, pursuant to the  
22 state licensing provisions of Title 59 of the Oklahoma Statutes;

1 11. Compensating a reviewing physician, as defined in paragraph  
2 10 of this subsection, on the basis of a percentage of the amount by  
3 which a claim is reduced for payment;

4 12. Compelling, without just cause, policyholders to institute  
5 suits to recover amounts due under its insurance policies or  
6 insurance contracts by offering substantially less than the amounts  
7 ultimately recovered in suits brought by them, when such  
8 policyholders have made claims for amounts reasonably similar to the  
9 amounts ultimately recovered; ~~or~~

10 13. Failing to maintain a complete record of all complaints  
11 which it has received during the preceding three (3) years or since  
12 the date of its last financial examination conducted or accepted by  
13 the Commissioner, whichever time is longer. This record shall  
14 indicate the total number of complaints, their classification by  
15 line of insurance, the nature of each complaint, the disposition of  
16 each complaint, and the time it took to process each complaint. For  
17 the purposes of this paragraph, "complaint" means any written  
18 communication primarily expressing a grievance; or

19 14. Requesting a refund of all or a portion of a payment of a  
20 claim made to a claimant or health care provider more than twenty-  
21 four (24) months after the payment is made. This paragraph shall  
22 not apply:

- 1           a. if the payment was made because of fraud committed by  
2           the claimant or health care provider, or  
3           b. if the claimant or health care provider has otherwise  
4           agreed to make a refund to the insurer for overpayment  
5           of a claim.

6           SECTION 2. This act shall become effective November 1, 1999.

7           COMMITTEE REPORT BY: COMMITTEE ON HUMAN RESOURCES, dated 3-25-99 -  
8           DO PASS, As Amended.