

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1243

By: Morgan

COMMITTEE SUBSTITUTE

[insurance - 74 O.S. 2001, Sections 1304, 1305.1,
1306, 1316.3 and 1365 - State and Education Employees
Group Insurance Board - HEDIS data requirement -
effective date -

emergency]

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

SECTION 1. AMENDATORY 74 O.S. 2001, 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) members as follows: The State Insurance Commissioner, or
the Commissioner's 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 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 the 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) 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~~ Accountancy 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) 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 the member 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) 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) The Attorney General shall furnish the Board with legal representation.

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

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

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

(12) 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 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) 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. The State and Education Employees Group Insurance Board may negotiate for discounts from billed charges when the out-of-state provider is not a network provider and the member sought services in an emergency situation, when the services were not otherwise available in the State of Oklahoma or when the Administrator approved the service as an exceptional circumstance.

(14) ~~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)~~ The Administrator shall appoint an advisory committee to the State and Education Employees Group Insurance Board. The advisory committee shall consist of seven (7) members. Of the members appointed to the advisory committee, 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. 2001, Section 1305.1, is amended to read as follows:

Section 1305.1 (1) The State and Education Employees Group Insurance Board shall discharge their duties with respect to the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act solely in the interest of said Acts and:

(a) for the exclusive purpose of:

- (i) providing benefits to the participants and their dependents, and
- (ii) defraying reasonable expenses of administering the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) by diversifying investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) in accordance with the laws, documents and instruments governing the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act.

(2) The monies received by the State and Education Employees Group Insurance Board shall be invested only in assets eligible for the investment of funds of legal reserve life insurance companies in this state as provided for in Sections 1602 through 1611, 1613 through 1620, and 1622 through 1624 of Title 36 of the Oklahoma Statutes. The term admitted assets shall mean the amount of the monies received by the Board and the provisions relating to limitation of investments as a percentage of surplus and loans to policyholders shall be inapplicable with respect to investment of the monies received by the Board.

(3) The Board may procure insurance indemnifying the members of the Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board.

(4) The Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board appointed by the chairman of the Board. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of the Board, on the establishment of investment and fund management guidelines, and in planning future investment policy.

The committee shall have no authority to act on behalf of the Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board nor take effect without the approval of the Board as provided by law.

(5) The Board shall retain qualified investment managers to provide for the investment of the monies received by the Board. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. Subject to the overall investment guidelines set by the Board, the investment managers shall have full discretion in the management of those monies of the Board allocated to the investment managers. The Board shall manage those monies not specifically allocated to the investment managers. The monies of the Board allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

(6) Funds and revenues for investment by the investment managers or the Board shall be placed with a custodian selected by the Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. In compliance with the investment policy guidelines of the Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Board are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the Board as to the investment of the monies of the Board in specific investment vehicles, the custodian bank or trust

company shall be contractually responsible to the Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

(7) By November 1, 1989, and prior to August 1 of each year thereafter, the Board shall develop a written investment plan for the monies received by the Board.

(8) The Administrator shall compile a quarterly financial report of all the funds of the Board on a ~~fiscal~~ calendar year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the ~~State~~ Insurance Commissioner for all domestic insurance companies. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall be distributed to the Governor, the Legislative Service Bureau and the Joint Committee on Fiscal Operations.

SECTION 3. AMENDATORY 74 O.S. 2001, 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 determine to be appropriate;

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 offer;

3. The determination of the methods of claims administration under such insurance and benefit plans as the Board may 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 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 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, 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;

~~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.~~ 12. 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. Emergency Rules adopted by the Board

and in effect on the first day of the legislative session shall not become null and void until January 15 immediately following the sine die adjournment of the Legislature;

~~14.~~ 13. 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.~~ 14. 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.~~ 15. The Board shall approve the amount of employee premiums and dependent premiums for such insurance plans as the Board shall offer for each year no later than the bid submission date for health maintenance organizations set by the Oklahoma State Employees Benefits Council, which for plan year beginning July 1, 2001, shall be set no later than the third Friday of December of the previous fiscal year. The next plan year shall begin January 1, 2002, and on January 1 each year thereafter. For plan year beginning January 1, 2002, and for each year thereafter, the submission date shall be set no later than the third Friday of August 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.

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;

~~17.~~ 16. 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.~~ 17. The Board shall establish a prescription drug card network;

~~19.~~ 18. 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.~~ 19. 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.~~ 20. 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 4. AMENDATORY 74 O.S. 2001, Section 1316.3, is amended to read as follows:

Section 1316.3 (1) Any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma or who has a vested benefit, pursuant to the provisions of the Teachers' Retirement System of Oklahoma may continue in force the health and dental insurance benefits authorized by the provisions of the State and Education Employees Group Insurance Act or may begin the health and dental insurance coverage if the education entity of the person is not a participant in the State and Education Employees Group Insurance Act or if the person did not participate when the education entity of the person participated in the State and Education Employees Group Insurance Act if such election to continue in force or begin is made within thirty (30) days from the date of termination of service. Health insurance benefits offered pursuant to this section shall include the state indemnity plan, managed care plans offered in alternative to the state indemnity plan, Medicare supplements offered by the Oklahoma State and Education Employees Group Insurance Board which shall include prescription drug coverage, and Medicare risk-sharing contracts offered in alternative to the Board's Medicare supplement. Provided, all Medicare risk-sharing contracts shall be subject to a risk adjustment factor, based on generally accepted actuarial principals for adverse selection which may occur. Except as provided in subsection E of Sections 5-117.5 and 14-108.1 of Title 70 of the Oklahoma Statutes and Section 840-2.27I of this title and subsection ~~(9)~~ (10) of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force or begin coverage is declined. Vested persons who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than ten (10) years of participating service with a qualifying employer, who within thirty

(30) days from the date of termination, elect to continue such coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Board.

(2) (a) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and pursuant to subsection (1) of this section elects to begin or to continue the health insurance plan shall pay the premium rate for the health insurance minus an amount equal to the premium rate of the Medicare supplement offered by the Oklahoma State and Education Employees Group Insurance Board or the amount determined pursuant to subsection (4) of this section, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (8) of this section.

(b) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act shall pay the premium rate for the health insurance minus an amount equal to the premium rate of the Medicare supplement offered by the Oklahoma State and Education Employees Group Insurance Board or the amount determined pursuant to subsection (4) of this section, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to said education employer that provides the health insurance plan to said retired person.

(3) (a) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and is a participant in the State and Education Employees Group Insurance Act and elects coverage under the Medicare supplement offered by the Oklahoma State and Education Employees Group Insurance Board, shall have the amount determined pursuant to subsection (4) of this section, or the premium rate of the Medicare supplement, whichever is less, paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (8) of this section. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the Medicare supplement, the retired person shall pay to the Board the remaining amount if the retired person wants to continue the coverage. If such retiree elects coverage under any Medicare risk-sharing contract, the retiree shall have the amount determined pursuant to subsection (4) of this section or the premium rate of the Medicare risk-sharing contract selected by the retiree, whichever is less, paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (8) of this section. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the Medicare risk-sharing contract, the retired employee shall pay to the Board the remaining amount if the retired employee wants to continue coverage.

(b) A retired person who is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered

pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act and elects coverage under the Medicare supplement offered by the Oklahoma State and Education Employees Group Insurance Board, shall have the amount determined pursuant to subsection (4) of this section, or the premium rate of the Medicare supplement, whichever is less, paid by the Teachers' Retirement System of Oklahoma to the education employer that provides the health insurance plan to said retired person. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the Medicare supplement, the retired person shall pay to said employer the remaining amount if the retired person wants to continue the coverage. If such retiree elects coverage under any Medicare risk-sharing contract, the retiree shall have the amount determined pursuant to subsection (4) of this section or the premium rate of the Medicare risk-sharing contract selected by the retiree, whichever is less, paid by the Teachers' Retirement System of Oklahoma to the Board in the manner specified in subsection (8) of this section. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the Medicare risk-sharing contract, the retired employee shall pay to the Board the remaining amount if the retired employee wants to continue coverage.

(4) Beginning July 1, 2000, the maximum benefit payable by the Teachers' Retirement System of Oklahoma on behalf of a retired person toward said person's monthly premium for health insurance shall be determined in accordance with the following schedule:

		LESS THAN		GREATER
			25 YEARS BUT	THAN
		LESS THAN	GREATER THAN	24.99
AVERAGE SALARY	15 YEARS OF		14.99 YEARS	YEARS OF
USED FOR DETERMINING	CREDITABLE		OF CREDITABLE	CREDITABLE
RETIREMENT ALLOWANCE	SERVICE		SERVICE	SERVICE

Less than \$20,000.00	\$103.00	\$104.00	\$105.00
Less than \$30,000.00 but greater than \$19,999.99	\$102.00	\$103.00	\$104.00
Less than \$40,000.00 but greater than \$29,999.99	\$101.00	\$102.00	\$103.00
\$40,000.00 or greater	\$100.00	\$101.00	\$102.00

(5) If a person retires and begins to receive benefits from the Teachers' Retirement System of Oklahoma or terminates service and has a vested benefit with the Teachers' Retirement System of Oklahoma, the person may elect, in the manner provided in subsection (1) of this section, to participate in the dental insurance plan offered through the State and Education Employees Group Insurance Act. The person shall pay the full cost of the dental insurance.

(6) Those persons who are receiving benefits from the Teachers' Retirement System of Oklahoma and have health insurance coverage which on the operative date of this section is being paid by the education entity from which the person retired shall make the election required in subsection (1) of this section within thirty (30) days of the termination of said health insurance coverage. The person making the election shall give the Board certified documentation satisfactory to the Board of the termination date of the other health insurance coverage.

(7) Dependents of a deceased education employee who was on active work status or on a disability leave at the time of death or of a participating retirant or of any person who has elected to receive a vested benefit under the Teachers' Retirement System of Oklahoma may continue the health and dental insurance benefits in force provided said dependents pay the full cost of such insurance and they were covered as eligible dependents at the time of such death and such election is made within thirty (30) days of date of death. The eligibility for said benefits shall terminate for the surviving spouse when said spouse remarries or becomes eligible for

another group health insurance plan. The eligibility for said benefits shall terminate for the surviving children when said children cease to qualify as dependents.

(8) The amounts required to be paid by the Teachers' Retirement System of Oklahoma pursuant to this section shall be forwarded no later than the tenth day of each month following the month for which payment is due by the Board of Trustees of the Teachers' Retirement System of Oklahoma to the State and Education Employees Group Insurance Board for deposit in the Education Employees Group Insurance Reserve Fund.

~~(9) Notwithstanding any provision in this section to the contrary, any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma after June 30, 1995, or terminates service with a vested benefit, pursuant to the provisions of the Teachers' Retirement System of Oklahoma after June 30, 1995, may participate in the health and dental plans authorized by the provisions of the State and Education Employees Group Insurance Act only if said person continues to participate in said insurance plans offered by the State and Education Employees Group Insurance Board for a period of at least three (3) consecutive years immediately prior to retirement or termination of service, or the education employer from which the person either retires or terminates service with a vested benefit obtains health and dental insurance coverage as provided for in the State and Education Employees Group Insurance Act.~~

~~(10)~~ The Teachers' Retirement System of Oklahoma shall provide the State and Education Employees Group Insurance Board information concerning the employers of retired and vested members necessary to allow the State and Education Employees Group Insurance Board to track eligibility for continued coverage.

~~(11)~~ (10) Upon retirement, any employee of the George Nigh Rehabilitation Institute who was transferred pursuant to Section

3427 of Title 70 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the State and Education Employees Group Insurance Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of retirement. Life insurance benefits shall not exceed the coverage the employee had at the time he or she was transferred pursuant to Section 3427 of Title 70 of the Oklahoma Statutes. Retirees who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by the retirement system pursuant to this section.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 1365, is amended to read as follows:

Section 1365. A. The Oklahoma State Employees Benefits Council shall have the following duties, responsibilities and authority with respect to the administration of the plan:

1. To construe and interpret the plan, and decide all questions of eligibility in accordance with this act and the Code;
2. To select those benefits which shall be made available to participants under the plan, according to this act, and other applicable laws and rules;
3. To retain or employ qualified agencies, persons or entities to design, develop, communicate, implement or administer the plan;
4. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;
5. To prepare and distribute information communicating and explaining the plan to participating employers and participants. The State and Education Employees Group Insurance Board, Health Maintenance Organizations, or other third-party insurance vendors may be directly or indirectly involved in the distribution of communicated information to participating state agency employers and state employee participants subject to the following conditions:

- a. the Council shall verify all marketing and communications information for factual accuracy prior to distribution,
- b. the Board or vendors shall provide timely notice of any marketing, communications, or distribution plans to the Council and shall coordinate the scheduling of any group presentations with the Council, and
- c. the Board or vendors shall file a brief summary with the Council outlining the results following any marketing and communications activities;

6. To receive from participating employers and participants such information as shall be necessary for the proper administration of the plan, and any of the benefits offered thereunder;

7. To furnish the participating employers and participants such annual reports with respect to the administration of the plan as are reasonable and appropriate;

8. To keep reports of benefit elections, claims and disbursements for claims under the plan;

9. To appoint an executive director who shall serve at the pleasure of the Council. The executive director shall employ or retain such persons in accordance with this act and the requirements of other applicable law, including but not limited to actuaries and certified public accountants, as he or she deems appropriate to perform such duties as may from time to time be required under this act and to render advice upon request with regard to any matters arising under the plan subject to the approval of the Council. The executive director shall have not less than seven (7) years of group insurance administration experience on a senior managerial level or not less than three (3) years of flexible benefits experience on a senior managerial level. Any actuary or certified public accountant employed or retained under contract by the Council shall have not less than three (3) years' experience in group insurance or employee

benefits administration. The compensation of all persons employed or retained by the Council and all other expenses of the Council shall be paid at such rates and in such amounts as the Council shall approve, subject to the provisions of applicable law;

10. To negotiate for best and final offer through competitive negotiation 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 participants as an alternative to the health plans offered by the Board, and to transfer to the health maintenance organizations such funds as may be approved for a participant electing health maintenance organization alternative services. Such HMOs may offer coverage through a point-of-service plan, subject to the guidelines established by the Council;

11. To retain as confidential information the initial Request For Proposal offers as well as any subsequent bid offers made by the health plans prior to final contract awards as a part of the best and final offer negotiations process for the benefit plan;

12. To promulgate administrative rules for the competitive negotiation process;

13. To require vendors offering coverage through the Council, including the Board, to provide such enrollment and claims data as is determined by the Council. The Oklahoma State Employees Benefits Council with the cooperation of the Department of Central Services acting pursuant to Section 85.1 et seq. of this title, shall be authorized to retain as confidential, any proprietary information submitted in response to the Council's Request For Proposal. Provided, however, that any such information requested by the Council from the vendors shall only be subject to the confidentiality provision of this paragraph if it is clearly

designated in the Request For Proposal as being protected under this provision. All requested information lacking such a designation in the Request For Proposal shall be subject to Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. From ~~the state plan and~~ health maintenance organizations, data provided shall include the current Health Plan Employer Data and Information Set (HEDIS);

14. To purchase any insurance deemed necessary for providing benefits under the plan, provided that the only indemnity plan selected by the Council shall be the indemnity plan offered by the Board, and to transfer to the Board such funds as may be approved for a participant electing a benefit plan offered by the Board;

15. To communicate deferred compensation programs as provided in Section 1701 of this title;

16. To assess and collect reasonable fees from the Board, and from such contracted health maintenance organizations and third party insurance vendors to offset the costs of administration as determined by the Council. The Council shall have the authority to transfer income received pursuant to this subsection to the Board for services provided by the Board;

17. To accept, modify or reject elections under the plan in accordance with this act and the Code;

18. To promulgate election and claim forms to be used by participants;

19. To take all steps deemed necessary to properly administer the plan in accordance with this act and the requirements of other applicable law; and

20. To manage, license or sell software developed for and acquired by the Council, whether or not such software is patented or copyrighted. The Council shall have the authority to license and sell such software or any rights to such software without declaring such property to be surplus. All proceeds from any such sale shall

be deposited in the Benefits Council Administration Revolving Fund and used to defray the costs of administration.

B. The Council members shall discharge their duties as fiduciaries with respect to the participants and their dependents of the plan, and all fiduciaries shall be subject to the following definitions and provisions:

1. A person or organization is a fiduciary with respect to the Council to the extent that the person or organization:

- a. exercises any discretionary authority or discretionary control respecting administration or management of the Council,
- b. exercises any authority or control respecting disposition of the assets of the Council,
- c. renders advice for a fee or other compensation, direct or indirect, with respect to any participant or dependent benefits, monies or other property of the Council, or has any authority or responsibility to do so, or
- d. has any discretionary authority or discretionary responsibility in the administration of the Council;

2. The Council may procure insurance indemnifying the members of the Council from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Council;

3. Except for a breach of fiduciary obligation, a Council member shall not be individually or personally responsible for any action of the Council;

4. Any person who is a fiduciary with respect to the Council shall be entitled to rely on representations made by participants, participating employers, third party administrators and beneficiaries with respect to age and other personal facts

concerning a participant or beneficiaries, unless the fiduciary knows the representations to be false;

5. Each fiduciary shall discharge his or her duties and responsibilities with respect to the Council and the plan solely in the interest of the participants and beneficiaries of the plan according to the terms hereof, for the exclusive purpose of providing benefits to participants and their beneficiaries, with the care, skill, prudence and diligence under the circumstances prevailing from time to time that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and

6. The duties and responsibilities allocated to each fiduciary by this act or by the Council shall be the several and not joint responsibility of each, and no fiduciary shall be liable for the act or omission of any other fiduciary unless:

- a. by his or her failure to properly administer his or her specific responsibility he or she enabled such other person or organization to commit a breach of fiduciary responsibility, or
- b. he or she knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person or organization, knowing such act or omission to be a breach, or
- c. having knowledge of the breach of another person or organization, he or she fails to make reasonable efforts under the circumstances to remedy said breach.

SECTION 6. This act shall become effective July 1, 2002.

SECTION 7. 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.

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SJ

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