

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1723

By: Case

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2001, Sections 1316.2, as last amended by Section 2, Chapter 450, O.S.L. 2002, 1370 and 1371 (74 O.S. Supp. 2002, Section 1316.2), which relate to state health benefits; allowing certain retired or vested members of the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System and the Oklahoma Police Pension and Retirement System to elect coverage under certain circumstances; providing for payment of premiums; subjecting participant to rate changes; allowing election for dependent coverage; providing notice; amending reference allowing certain participants not to enroll in state health plan if the participant provides proof of other health and dental coverage; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 1316.2, as last amended by Section 2, Chapter 450, O.S.L. 2002 (74 O.S. Supp. 2002, Section 1316.2), is amended to read as follows:

Section 1316.2 (1) Any employee other than an education employee who retires pursuant to the provisions of the Oklahoma Public Employees Retirement System or who has a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System may continue in force the health and dental insurance benefits authorized by the provisions of the State and Education Employees Group Insurance Act, or other employer insurance benefits as provided for in subsection H of Section 1315 of this

title, if such election to continue in force is made within thirty (30) days from the date of termination of service or as provided in subsection (11) of this section. 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, other employer plans as provided for in subsection H of Section 1315 of this title, 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 otherwise provided for in Section 840-2.27I of this title and subsection (11) of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force is declined. Vested employees other than education employees who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than eight (8) years of participating service with a participating employer, who within thirty (30) days from the date of termination elect to continue such coverage or elect pursuant to subsection (11) of this section to reinstate coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Board. Provided also, any employee other than an education employee who commences employment with a participating employer on or after September 1, 1991, who terminates service with such employer on or after July 1, 1996, but who otherwise has insufficient years of service to retire or terminate service with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System or to elect to continue coverage as a

nonvested employee as provided in this section, but who, immediately prior to employment with the participating employer was covered as a dependent on the health and dental insurance policy of a spouse who was an active employee other than an education employee, may count as part of his or her credited service for the purpose of determining eligibility to elect to continue coverage under this section, the time during which said terminating employee was covered as such a dependent.

(2) A retired employee other than an education employee who is receiving benefits from the Oklahoma Public Employees Retirement System 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 continue the health insurance plan or pursuant to subsection (11) of this section elects to reinstate coverage in 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 One Hundred Five Dollars (\$105.00), whichever is less, which shall be paid by the Oklahoma Public Employees Retirement System to the Board or other insurance carrier as provided for in subsection H of Section 1315 of this title in the manner specified in subsection (9) of this section.

(3) A retired employee other than an education employee who is receiving benefits from the Oklahoma Public Employees Retirement System after September 30, 1988, 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 pursuant to subsection (1) of this section elects to continue the health insurance plan or pursuant to subsection (11) of this section elects to reinstate coverage in the health insurance plan and elects coverage under the Medicare supplement offered by the Oklahoma State and Education Employees Group Insurance Board or

other employer plan as provided for in subsection H of Section 1315 of this title shall have One Hundred Five Dollars (\$105.00), or the premium rate of the Medicare supplement, whichever is less, paid by the Oklahoma Public Employees Retirement System to the Board or other insurance carrier as provided for in subsection H of Section 1315 of this title in the manner specified in subsection (9) of this section. If the amount paid by the Oklahoma Public Employees Retirement System does not cover the full cost of the Medicare supplement, the retired employee shall pay to the Board or other insurance carrier as provided for in subsection H of Section 1315 of this title the remaining amount if the retired employee wants to continue coverage. If such retiree elects coverage under any Medicare risk-sharing contract, the retiree shall have One Hundred Five Dollars (\$105.00) or the premium rate of the Medicare risk-sharing contract selected by the retiree, whichever is less, paid by the Oklahoma Public Employees Retirement System to the Board or other insurance carrier as provided for in subsection H of Section 1315 of this title in the manner specified in subsection (9) of this section. If the amount paid by the Oklahoma Public Employees Retirement System does not cover the full cost of the Medicare risk-sharing contract, the retired employee shall pay to the Board or other insurance carrier as provided for in subsection H of Section 1315 of this title the remaining amount if the retired employee wants to continue coverage.

(4) A retired employee other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System 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 continue the health insurance plan or pursuant to subsection (11) of this section elects to reinstate coverage in 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 One Hundred Five Dollars (\$105.00), whichever is less, which shall be paid by the Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection (9) of this section.

(5) A retired employee other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System after September 30, 1988, 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 pursuant to subsection (1) of this section elects to continue the health insurance plan or pursuant to subsection (11) of this section elects to reinstate coverage in the health insurance plan and elects coverage under the Medicare supplement offered by the Oklahoma State and Education Employees Group Insurance Board shall have One Hundred Five Dollars (\$105.00), or the premium rate of the Medicare supplement, whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection (9) of this section. If the amount paid by the Oklahoma Law Enforcement Retirement System does not cover the full cost of the Medicare supplement, the retired employee shall pay to the Board the remaining amount if the retired employee wants to continue coverage. If such retiree elects coverage under any Medicare risk-sharing contract, the retiree shall have One Hundred Five Dollars (\$105.00) or the premium rate of the Medicare risk-sharing contract selected by the retiree, whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Board in the manner specified in subsection (9) of this section. If the amount paid by the Oklahoma Law Enforcement Retirement System 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.

(6) A retired employee other than an education employee who is receiving benefits from the Uniform Retirement System for Justices and Judges 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 continue the health insurance plan or pursuant to subsection (11) of this section elects to reinstate coverage in 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 One Hundred Five Dollars (\$105.00), whichever is less, which shall be paid by the Uniform Retirement System for Justices and Judges to the Board in the manner specified in subsection (9) of this section.

(7) A retired employee other than an education employee who is receiving benefits from the Uniform Retirement System for Justices and Judges after September 30, 1988, 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 pursuant to subsection (1) of this section elects to continue the health insurance plan or pursuant to subsection (11) of this section elects to reinstate coverage in the health insurance plan and elects coverage under the Medicare supplement offered by the Oklahoma State and Education Employees Group Insurance Board shall have One Hundred Five Dollars (\$105.00), or the premium rate of the Medicare supplement, whichever is less, paid by the Uniform Retirement System for Justices and Judges to the Board in the manner specified in subsection (9) of this section. If the amount paid by the Uniform Retirement System for Justices and Judges does not cover the full cost of the Medicare supplement, the retired employee shall pay to the Board the remaining amount if the retired employee wants to continue coverage. If such retiree elects coverage under any Medicare risk-sharing contract, the retiree shall have One Hundred Five Dollars (\$105.00) or the premium rate of the

Medicare risk-sharing contract selected by the retiree, whichever is less, paid by the Uniform Retirement System for the Justices and Judges to the Board in the manner specified in subsection (9) of this section. If the amount paid by the Uniform Retirement System for Justices and Judges 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.

(8) Dependents of a deceased employee other than an 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 Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges or the Oklahoma Law Enforcement Retirement System 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 children when said children cease to qualify as dependents.

(9) The amounts required to be paid by the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Oklahoma Law Enforcement Retirement System 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 Oklahoma Public Employees Retirement System Board of Trustees or the Oklahoma Law Enforcement Retirement Board to the State and Education Employees Group Insurance Board for deposit in the Health, Dental and Life Insurance Reserve Fund or to another insurance carrier as provided for in subsection H of Section 1315 of this title.

(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 a state retirement system pursuant to this section.

(11) Any employee who retires or who has elected a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System and the Oklahoma Police Pension and Retirement System and who was participating in a qualified state plan at the time the employee retired or elected a vested benefit, and who does not elect to continue coverage or who later ends coverage because such person is being covered on other group insurance either as a primary or as a dependent may, only one time, within thirty (30) days of a loss of coverage, elect to again be covered under the health and dental insurance benefits and all other benefits authorized by the provisions of the State and Education Employees Group Insurance Act, if that coverage is lost. Any former employee who reinstates health insurance coverage pursuant to this subsection shall pay the cost of the insurance premium as provided in this section and pursuant to the rules and enrollment procedures established by the State and Education Employees Group Insurance Board. Such former employee shall be

subject to the same rate changes as those made available to all other vested or retired participants. Such former employee may elect coverage for his or her current dependents if the election is made within thirty (30) days of reinstatement of health insurance. The Board shall notify the Oklahoma Public Employees Retirement System, Oklahoma Law Enforcement Retirement System and the Uniform Retirement System for Justices and Judges upon a member's reinstatement of health care coverage, so that the retirement system can timely make any applicable payments to the Board.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 1370, is amended to read as follows:

Section 1370. A. Subject to the requirement that a participant must elect ~~at least~~ the default benefits, ~~or~~ the basic plan, or is a person who has retired from a branch of the United States military and has been provided with health care through a federal plan and provides proof of this coverage and opts to not choose any benefits, flexible benefit dollars may be used to purchase any of the benefits offered by the Oklahoma State Employees Benefits Council under the flexible benefits plan. A participant who has provided proof of other coverage as described in this subsection shall not receive flexible benefit dollars if the person elects not to purchase any benefits. A participant's flexible benefit dollars for a plan year shall consist of the sum of (1) flexible benefit allowance credited to a participant by the participating employer, and (2) pay conversion dollars elected by a participant.

B. Each participant shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each participant shall be communicated to him or her prior to the enrollment period for each plan year.

C. For the plan year ending December 31, 2001, and each plan year thereafter, the amount of a participant's benefit allowance,

which shall be the total amount the employer contributes for the payment of insurance premiums or other benefits, shall be:

1. The greater of Two Hundred Sixty-two Dollars and nineteen cents (\$262.19) per month or an amount equal to the sum of the average monthly premiums of all high option health insurance plans, the average monthly premiums of the dental plans, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to state employees or the amount determined by the Council based on a formula for determining a participant's benefit credits consistent with the requirements of 26 U.S.C., Section 125(g) (2) and regulations thereunder; or

2. The greater of Two Hundred Twenty-four Dollars and sixty-nine cents (\$224.69) per month or an amount equal to the sum of the average monthly premiums of all high option health insurance plans, the average monthly premiums of the dental plans, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to state employees plus one of the additional amounts as follows for participants who elect to include one or more dependents:

- a. for a spouse, seventy-five percent (75%) of the average price of all high option benefit plans available for coverage of a spouse,
- b. for one child, seventy-five percent (75%) of the average price of all high option benefit plans available for coverage of one child,
- c. for two or more children, seventy-five percent (75%) of the average price of all high option benefit plans available for coverage of two or more children,
- d. for a spouse and one child, seventy-five percent (75%) of the average price of all high option benefit plans available for coverage of a spouse and one child, or

- e. for a spouse and two or more children, seventy-five percent (75%) of the average price of all high option benefit plans available for coverage of a spouse and two or more children.

D. This section shall not prohibit payments for supplemental health insurance coverage made pursuant to Section 1314.4 of this title or payments for the cost of providing health insurance coverage for dependents of employees of the Grand River Dam Authority.

E. If a participant desires to buy benefits whose sum total of benefit prices is in excess of his or her flexible benefit allowance, the participant may elect to use pay conversion dollars to purchase such excess benefits. Pay conversion dollars may be elected through a salary reduction agreement made pursuant to the election procedures of Section 1371 of this title. The elected amount shall be deducted from the participant's compensation in equal amounts each pay period over the plan year. On termination of employment during a plan year, a participant shall have no obligation to pay the participating employer any pay conversion dollars allocated to the portion of the plan year after the participant's termination of employment.

F. If a participant elects benefits whose sum total of benefit prices is less than his or her flexible benefit allowance, he or she shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation will be paid in substantially equal amounts each pay period over the plan year. On termination during a plan year, a participant shall have no right to receive any such taxable cash compensation allocated to the portion of the plan year after the participant's termination. Nothing herein shall affect a participant's obligation to elect the minimum benefits or to accept the default benefits of the plan with corresponding reduction in the sum of his or her flexible benefit

allowance equal to the sum total benefit price of such minimum benefits or default benefits.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 1371, is amended to read as follows:

Section 1371. A. All participants must purchase at least the basic plan unless the participant is a person who has retired from a branch of the United States military and has been provided with health coverage through a federal plan and that participant provides proof of that coverage. 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 be responsible for determining the plan design and the benefit price for the plans that they offer. 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.

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

E. 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.

F. 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.

G. 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.

H. 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. This act shall become effective January 1, 2004.

49-1-5577            DLW            01/23/03