

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 649

By: Coffee

AS INTRODUCED

An Act relating to insurance; amending 74 O.S. 2001, Sections 1302, 1303, and 1306, as amended by Section 3, Chapter 196, O.S.L. 2002 (74 O.S. Supp. 2002, Section 1306), which relate to the State and Education Employees Group Insurance Board; adding purposes; adding definitions; deleting reference; amending powers and duties of the Board; amending form; amending 74 O.S. 2001, Sections 1382, 1383, and 1384, which relate to the Wellness Council; deleting references to the Oklahoma State Employees Benefits Council; providing effective date for certain transfer; transferring Wellness Council; transferring certain positions to the Board with no lapse of benefits and at same job level and rate of pay; requiring the Board to make certain designation; transferring certain fund to the Board; amending references; requiring establishment of flexible benefits plan; requiring certain participation; providing for interpretations; authorizing adoption of rules; requiring consistent and uniform application of rules and decisions; allowing Board to rely on specified information; allowing for outside contracts and specifying certain criteria thereto; limiting certain expenses; excluding certain income adjustments from withholding; authorizing modification or abolishment of certain inclusions and exclusions under certain circumstances; stating eligibility requirements; providing for termination of benefits; defining flexible benefits allowance; crediting annually certain allowance; providing for communication; setting amount of flexible benefit allowances; allowing certain payments for certain coverage; allowing purchase of excess benefits; providing for treatment of excess flexible benefit allowance; requiring certain coverage; requiring minimum plan purchase; construing provisions of law; requiring the Board to design the basic plan and stating criteria; allowing alternate election of medical health coverage; requiring health maintenance organizations and other vendors to meet certain requirements; providing for responsibilities of the Board; permitting additional medical plans; allowing participation in health maintenance organizations; requiring certain bidding procedures; permitting certain additional plans; providing for annual election; providing for enrollment period; providing for certain irrevocable advance election; providing certain default benefits; providing forms and other procedures; providing for treatment of certain default benefits; placing requirements on Board for claims payment; requiring claimants to provide

certain information; providing for notice of claim denial; establishing appeal process; requiring development of service areas; exempting participating health maintenance organizations from offering enrollment in every service area, and from being mandated to offer a Medicare supplement plan; providing exception; requiring participating health maintenance organization to meet standardized benefit plan; allowing participating health maintenance organizations to offer certain enhancements; providing maximum time period for payment of premiums; establishing fiduciary responsibilities for the State and Education Employees Group Insurance Board; ensuring participants have options on vision plans; requiring certain vision plans be offered; providing date for notification by vision plans; establishing criteria for vision plan participation; applying administrative fees equally; restricting imposition of additional requirements; abolishing the Oklahoma State Employees Benefits Council; transferring duties and funds; requiring the Board to make certain determination; requiring certain study be forwarded to the Office of Personnel Management; providing for use of study; requiring notice; providing for severance benefits; specifying funds from which severance benefits shall be paid; providing for priority reemployment status; providing for transfer of certain employees at same job level and rate of pay and without lapse of benefits; repealing 74 O.S. 2001, Sections 1362, 1363, 1364, 1365, as amended by Section 5, Chapter 196, O.S.L. 2002, 1365, as amended by Section 9, Chapter 439, O.S.L. 2002, 1366, Section 10, Chapter 439, O.S.L. 2002, Section 3, Chapter 489, O.S.L. 2002, 1368, 1369, 1370, 1371, 1372, 1373, and Section 1, Chapter 501, O.S.L. 2002 (74 O.S. Supp. 2002, Sections 1365, 1366.1, 1366.2 and 1374), which relate to the Oklahoma State Employees Benefits Act; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 1302, is amended to read as follows:

Section 1302. It is hereby declared that the purpose of this act is:

(a) To provide uniformity in Accident and Health Insurance and/or Benefits Coverage and Life Insurance on all employees of the State of Oklahoma;

(b) To enable the state to attract and retain qualified employees by providing health, dental and life insurance benefits similar to those commonly provided in private industry;

(c) To recognize and protect the state's investment in each permanent employee by promoting and preserving good health and longevity among state employees;

(d) To recognize the service to the state by elected and appointed officials by extending to them the same health, dental and life insurance benefits as are provided herein for state employees;

(e) To recognize long and faithful service, and to encourage employees to remain in state service until eligible for retirement by providing health, dental and life insurance benefits for employees; ~~and~~

(f) To ensure state compliance with the Health Maintenance Organization Act of 1973 pursuant to 42 U.S.C., Section 300e et seq.;

(g) To provide state active employees with reimbursement for qualifying dependent care expenses for which a dependent care tax credit is not taken, reimbursement for qualifying health care expenses not reimbursed by any other insurance plan or taken as a tax deduction, additional benefits which are currently taxable, additional benefits which are not currently taxable, and cash compensation; and

(h) To provide for the coordination and design, in accordance with applicable law, of all employee benefits offered to employees so as to increase the efficient delivery and effectiveness of those benefits.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 1303, is amended to read as follows:

Section 1303. For the purposes of and as used in the State and Education Employees Group Insurance Act:

1. "Board" means the State and Education Employees Group Insurance Board as created by the State and Education Employees Group Insurance Act;

2. "Employee" means those state employees, education employees and other eligible employees participating in the State and Education Employees Group Insurance Act;

3. "Education Employee" means those employees other than adjunct professors employed by a state institution of higher education, in the service of an education entity who are members or are or will be eligible to become members of the Teachers' Retirement System of Oklahoma and who receive compensation for such service after the education entity begins to participate in the State and Education Employees Group Insurance Act and visiting faculty who are not eligible for membership in the Teachers' Retirement System of Oklahoma;

4. "Adjunct Professor" means a person employed by an institution of higher education who is attached in a subordinate or temporary capacity to the faculty or staff, and who is contracted to instruct in a given specific discipline;

5. "Visiting Faculty" means a person employed by an institution of higher education who is not eligible for academic rank or tenure, other than an adjunct professor, and who is contracted to instruct in a given specific discipline generally not to exceed one (1) academic year;

6. "Education Entity" means a school district, a technology center school district, or an institution comprising The Oklahoma State System of Higher Education;

7. "State Employee" means and includes each officer or employee in the service of the State of Oklahoma who, after January 1, 1966, received compensation for service rendered to the State of Oklahoma on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of the state or who

receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Treasurer against appropriations made by the Legislature from any state fund or against trust funds held by the State Treasurer, who is employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours per year, and whose employment is not seasonal or temporary, except that a person elected by popular vote will be considered an employee during the person's tenure in office; provided, however, that employees who are otherwise eligible who are on approved leave without pay shall be eligible to continue coverage during such leave not to exceed twenty-four (24) months, as provided in the Merit Rules for Employment published by the Office of Personnel Management, from the date the employee goes on such leave provided the employee pays the full premiums due or persons who are drawing disability benefits under Section 1331 et seq. of this title or meet each and every requirement of the State Employees Disability Program shall be eligible to continue coverage provided the person pays the full premiums due;

8. "Carrier" means the State of Oklahoma or a state designated Health Maintenance Organization (HMO). Such HMO shall be a federally qualified Health Maintenance Organization under 42 U.S.C., Section 300e et seq.;

9. "Health Insurance Plan" means a self-insured plan by the State of Oklahoma for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan or prepaid medical plan(s) offered to employees as an alternative to the state-administered plan by federally qualified HMOs which have contracted with the state;

10. "Life Insurance Plan" means a self-insured plan for the purpose of paying death and dismemberment benefits up to the maximum coverage provided by the plan;

11. "Dental Benefits Plan" means a plan by the State of Oklahoma for the purpose of paying the cost of dental care up to the maximum coverage provided by the plan; whenever the term "Dental Insurance Plan" or a term of like import appears in the State and Education Employees Group Insurance Act, the term shall mean "Dental Benefits Plan";

12. "Other insurance" means any type of coverage other than basic hospital and medical benefits, major medical benefits, comprehensive benefits, life insurance benefits or dental insurance benefits, which the Board may be directed to offer;

13. "Dependent" means an employee's spouse or any unmarried child (1) under the age of nineteen (19) years, regardless of residence, provided that the employee is primarily responsible for their support, including (a) an adopted child and (b) a stepchild or child who lives with the employee in a regular parent-child relationship, or (2) under the age of twenty-five (25) and who is dependent upon the employee for support who is enrolled as a full-time student at an accredited secondary school, college, university, or institution of higher learning accredited by the State Department of Education, State Board of Career and Technology Education, Oklahoma State Regents for Higher Education, or the Oklahoma Board of Private Vocational Schools, and (3) regardless of age who is incapable of self-support because of mental or physical incapacity that existed prior to reaching the age of nineteen (19) years;

14. "Comprehensive benefits" means benefits which reimburse the expense of hospital room and board, other hospital services, certain outpatient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, physicians' services provided by house and office calls, treatments administered in physicians' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services,

optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care, and such other benefits as may be determined by the Board. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by the Board; ~~and~~

15. "Life insurance coverage" shall include a maximum amount of basic life insurance or benefit with or without a double indemnity provision and an amount of accidental death and dismemberment insurance or benefit per employee other than education employees to be provided by the State of Oklahoma, and the employee other than an education employee shall have the option to purchase additional life insurance or benefits on the employee's life up to the amount provided by the plan. Such basic life insurance benefits, with or without double indemnity, and accidental death and dismemberment benefits shall not exclude coverage for death or dismemberment resulting from war, insurrection or riot. The Board may also extend dependent life insurance in an amount to be determined by the Board to each insured employee other than an education employee who elects to insure the employee's eligible dependents. Premiums for the dependent life insurance shall be paid wholly by the employee other than an education employee;

16. "Basic plan" means the plan that provides the least amount of benefits each active state employee is required to purchase pursuant to the provisions of the flexible benefits plan. The basic plan shall include only health, dental, disability and life benefits;

17. "Active state employee benefit plan" means the specific terms and conditions regarding a benefit which may be purchased under the flexible benefits plan, including the terms and conditions

of any separate plan document, group insurance policy or administrative services contract entered into by the Board;

18. "Benefit price" means the number of flexible benefit dollars needed to purchase a benefit under the flexible benefits plan;

19. "Code" means the Internal Revenue Code of 1986, as amended from time to time;

20. "Compensation" means the remuneration directly paid to a participating active state employee by a participating active state employer exclusive of overtime pay, and longevity pay, calculated prior to and without regard to adjustments arising out of an employee's participation in the plan authorized pursuant to this act, or amounts deferred under the tax sheltered income deferment plans as authorized by Section 1701 et seq. of this title;

21. "Default benefit" means any benefit an active state employee participant who fails to make a proper election under the plan shall be deemed to have purchased;

22. "Flexible benefit allowance" means the annual amounts credited by the participating employer for each active state employee participant for the purchase of benefits under the plan;

23. "Participating active state employer" means any state agency, board, commission, department, institution, authority, officer, bureau, council, office or other entity created by the Oklahoma Constitution or statute that is a participating employer of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System or the Uniform Retirement System for Justices and Judges, but shall not include any county, county hospital, city or town, conservation district, any private or public trust in which a county, city or town participates and is the primary beneficiary, any school district or vocational-technical school district, or political subdivision of the state, but shall include the State Department of Education, the Oklahoma Department

of Wildlife Conservation, the Oklahoma Employment Security Commission, the Teachers' Retirement System of Oklahoma and the Oklahoma Department of Career and Technology Education. Provided the term "participating employer" shall also mean the Oklahoma State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education upon agreement between the State Regents for Higher Education or the appropriate governing board of an institution under the authority of the State Regents for Higher Education and the Board;

24. "Pay conversion dollars" means amounts by which an active state employee participant elects to reduce his compensation to purchase benefits under the plan;

25. "Flexible benefits plan" means the flexible benefits plan authorized pursuant to this act;

26. "Plan year" means the twelve-month period commencing on January 1 and ending on the following December 31;

27. "Salary adjustment agreement" means a written agreement between an active state participant and active state participating employer whereby the employer agrees to adjust the salary of the participant by a stated amount or an amount equal to the cost of benefits selected under the plan and the participating employer agrees to contribute such amount to cover certain costs of the benefits selected by the participant to the Board; and

28. "Termination" means the termination of an active state participant's employment as an employee of a participating active state employer, whether by reasons of discharge, voluntary termination, retirement, death or reduction-in-force.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 1306, as amended by Section 3, Chapter 196, O.S.L. 2002 (74 O.S. Supp. 2002, 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. To construe and interpret the plan, and decide all questions of eligibility in accordance with the State and Education Employees Group Insurance Act and the Internal Revenue Code of 1986, as amended from time to time. 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. To select those benefits which shall be made available to participants under the plan, according to the State and Education Employees Group Insurance Act, and other applicable laws and rules;

6. To retain or employ qualified agencies, persons or entities to design, develop, communicate, implement or administer the plan;

7. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;

8. To prepare and distribute information communicating and explaining the plan to participating employers and participants. 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 Board shall verify all marketing and communications information for factual accuracy prior to distribution,
- b. the vendors shall provide timely notice of any marketing, communications, or distribution plans to the Board and shall coordinate the scheduling of any group presentations with the Board, and
- c. the vendors shall file a brief summary with the Board outlining the results following any marketing and communications activities;

9. 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;

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

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

12. 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 negotiation process for the benefit plans;

13. To require vendors offering coverage through the Board, to provide such enrollment and claims data as is determined by the Board. The Board in conjunction with 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 Board's Request for Proposal. Provided, however, that any such information requested by

the Board 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 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;

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

16. To assess and collect reasonable fees from such contracted health maintenance organizations and third party insurance vendors to offset the costs of administration as determined 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 the State and Education Employees Group Insurance Act and the requirements of other applicable law;

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

~~6.~~ 21. 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.~~ 22. 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.~~ 23. 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.~~ 24. 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.~~ 25. a. To ~~select and contract~~ assist the Department of Central Services in selecting and contracting through a best and final offer process 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~~. The Board shall be responsible for contracting with an independent actuary to assist the Department of Central Services during this process. The Board shall 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.~~ 26. 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;

~~12.~~ 27. 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 approved by the Governor which are in effect on the first day of the Regular Session of the Oklahoma Legislature shall not become null and void until January 15 of the subsequent calendar year;

~~13.~~ 28. 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;

~~14.~~ 29. 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;

~~15.~~ 30. 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;

~~16.~~ 31. 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;

~~17.~~ 32. The Board shall establish a prescription drug card network;

~~18.~~ 33. 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;

~~19.~~ 34. 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

~~20.~~ 35. 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.

~~21.~~ 36. The State and Education Employees Group Insurance Board shall annually collect its own set of performance measures comparable to the Health Plan Employer Data and Information Set (HEDIS) for the purpose of assessing the quality of its HealthChoice plans and the other services it provides.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 1382, is amended to read as follows:

Section 1382. A. ~~There is hereby created within the Oklahoma State Employee Benefits Council~~ Effective January 1, 2004, the Wellness Council shall be transferred to the State and Education Employees Group Insurance Board, to continue until July 1, 2006, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title. Those positions identified as unique essential functions shall be transferred to the State and Education Employees Group Insurance Board at the same job level and rate of pay as they received as of December 31, 2003, with no lapse of benefits.

B. The Wellness Council shall be composed of one representative from every state agency which has designated a person to serve on the Council as the wellness coordinator for their respective state agency and one representative of the Oklahoma Governor's Council on Physical Fitness and Sports.

C. Each state agency with two hundred (200) or more full-time-equivalent employees shall appoint a wellness coordinator. All wellness coordinators shall be appointed by October 1, 1994. Each wellness coordinator shall be appointed for a term of two (2) years. If a wellness coordinator can no longer serve for any reason the appointing agency shall fill the vacancy for the unexpired term.

D. ~~The first meeting of the Council shall be called by the Executive Director of the Employee Benefits Council. The Employee Benefits Council~~ The State and Education Employees Group Insurance Board shall designate a person to serve as the State Government Wellness Coordinator. The State Government Wellness Coordinator shall serve as the chairman of the Wellness Council. The chairman shall preside over meetings of the Council and perform such other duties as may be required by the Council. The Council shall elect one of its members to serve as vice-chairman who shall perform the duties of the chairman in the absence of the chairman or upon the inability or refusal of the chairman to act.

E. The Council shall meet at least once quarterly, and may meet more often as necessary.

F. The members of the Council shall serve without compensation.

G. A majority of the members of the Council shall constitute a quorum for the transaction of business.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 1383, is amended to read as follows:

Section 1383. A. The Wellness Council shall coordinate and develop wellness programs in state government. The Council shall work to encourage participation in wellness programs by state

employees. The Wellness Council may provide programs to state agencies for quarterly health and safety training as required by the Department of Labor according to the provisions of Section 403 of Title 40 of the Oklahoma Statutes. In addition the Council shall establish methods and a plan of action for receiving money through grants from federal and private funds to implement wellness programs in this state.

B. The chair of the Wellness Council shall appoint a Wellness Coordinating Committee. The members of the Committee shall be selected from among the members of the Council. The Committee shall be responsible for meeting and coordinating wellness efforts with the State and Education Employees Group Insurance Board, ~~the Oklahoma State Employees Benefits Council,~~ the State Employee Assistance Program and the Oklahoma Health Care Authority. In addition the Committee shall be responsible for developing a plan of action to solicit public and private funds for wellness programs.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 1384, is amended to read as follows:

Section 1384. ~~There is hereby created in the State Treasury a revolving fund for the Oklahoma State Employees Benefits Council to be designated the "Wellness Program Fund"~~ The "Wellness Program Fund" shall be transferred to the State and Education Employees Group Insurance Board effective January 1, 2004. The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Wellness Council division of the ~~Oklahoma State Employees Benefits Council~~ State and Education Employees Group Insurance Board from money received through grants, donations, contributions and gifts from any public or private source and transfer of funds from the ~~Benefits Council Administration~~ Group Insurance Board Administration Revolving Fund as approved by the ~~Oklahoma State Employees Benefits Council~~ State and Education Employees Group Insurance Board. The Wellness Council may expend

funds as provided for by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The State and Education Employees Group Insurance Board shall establish a flexible benefits plan. All participating active state employers shall offer the plan to their eligible employees.

B. The Board shall interpret the plan and decide any matters arising thereunder and may adopt such rules and procedures as it deems necessary, desirable or appropriate in the administration of the plan subject to the Administrative Procedures Act. All rules and decisions of the Board shall be uniformly and consistently applied to all participants in similar circumstances and shall be conclusive and binding on all persons having an interest in the plan. When making any decision or determination, the Board shall be entitled to rely upon such information as may be furnished to it by a participant, a participating employer, legal counsel, third party administrator or the management of any individual benefit plan which is incorporated in the plan.

C. The Administrator, under the direction of the Board, may contract with one or more firms or organizations to administer or provide consulting services in regard to all or any portion of the plan.

When awarding a contract for services pursuant to this subsection, the Board shall satisfy itself that the contractor has no interests which would impair its ability to perform the tasks and services required and that the contractor will exercise proper independent judgment when performing its responsibilities under the contract.

D. Expenses included in an employee's salary adjustment agreement pursuant to the flexible benefits plan shall be limited to expenses for:

1. Premiums for any health insurance, health maintenance organization, life insurance, long term disability insurance, dental insurance or high deductible health benefit plan offered to employees and their dependents;

2. Insurance premiums or retirement plan premiums or payments which are supplemental to insurance or retirement programs offered by this state or which are paid for under salary adjustment agreements pursuant to the provisions of Section 7.10 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

4. Medical care, as defined by the Board; and

5. All other eligible benefit programs offered under 26 United States Code Section 125.

E. The amount by which an employee's salary is adjusted pursuant to a salary adjustment agreement shall be excluded from income in computation of income tax withholding, federal insurance contributions act taxes, unemployment payments and workers' compensation coverage. Such amount shall be included as income in computation of state retirement contributions and benefits. Provided, if the inclusions and exclusions provided in this subsection conflict with the provisions of federal law or regulations pertaining to flexible benefits plans, the Board is authorized to modify or abolish such inclusions and exclusions.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A state employee shall be eligible to participate in the plan commencing January 1 provided such employee qualifies as a participant as provided in this act.

B. Except to the extent a benefit plan provides otherwise, each participant's eligibility to participate in the plan and each benefit plan shall terminate on the participant's termination.

C. Each of the benefit plans incorporated in the plan may have its own eligibility requirements for participation which differ from those set forth in the plan to govern participation in the plan. The eligibility requirements set forth in the plan relate only to participation in the plan and shall have no effect on such eligibility requirements.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Subject to the requirement that a participant must elect at least the default benefits, or the basic plan, flexible benefit dollars may be used to purchase any of the benefits offered by the State and Education Employees Group Insurance Board under the flexible benefits plan. 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 Board 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 Title

74 of the Oklahoma Statutes 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 10 of this act. 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 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. All participants must purchase at least the basic plan. On or before January 1 the State and Education Employees Group Insurance Board 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 Board 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 Board, 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. Effective for the plan year beginning July 1, 1996, and each year thereafter, 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 Board. The benefit price of any health maintenance organization shall be determined on a competitive bid basis. All plans offered by health maintenance organizations meeting the bid requirements as determined by the Board shall be accepted. The Board shall have the

authority to reject the bid or restrict enrollment in any health maintenance organization for which the Board at the recommendation of the Department of Central Services and an independent actuary determines the benefit price to be excessive. The Board 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 Board 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 Board, 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 Board 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 Board 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 Board 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 Board, 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.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Board shall be responsible for making all determinations as to the rights of any participant or any beneficiary of a participant to receive amounts under the plan except to the extent a benefit plan provides to the contrary. The Board may prescribe forms and procedures for making claims for benefits under the plan to the extent such forms or procedures are not prescribed by the terms of a benefit plan. Each person making a claim for benefits under the plan shall also furnish the Board with such documents, evidence, data or information in support of such claim as the Board considers necessary or desirable. If any claim for benefits under the plan is wholly or partially denied, the claimant shall be given notice in

writing of such denial within a reasonable period of time, but no later than forty-five (45) days after the claim is filed. Such notice shall set forth the following information:

1. The specific reason or reasons for the denial;
2. Specific reference to pertinent plan provisions on which the denial is based;
3. A description of any additional materials or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary;
4. An explanation that a full and fair review by the Board of the decision denying the claim may be requested by the claimant or his or her authorized representative by filing with the Board, within ninety (90) days after notice of denial has been received, a written request for such hearing; and
5. If such request is so filed, the claimant or his authorized representative may review pertinent documents and submit issues and comments in writing within the same ninety-day period specified in paragraph 4 of this section. The hearing before the Board reviewing the Board's claim denial shall be held no later than sixty (60) days after the Board's receipt of the request for hearing, unless special circumstances require an extension of time by the claimant, in which case a hearing shall be held not later than one hundred twenty (120) days after receipt of the request for hearing. The decision on the hearing shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and shall include specific references to the pertinent plan provisions on which the decision is based.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law to the contrary, for contracts relating to the plan year beginning January 1, 2004, and

for each plan year thereafter, the State and Education Employees Group Insurance Board shall:

- a. develop geographic service areas and list the zip codes contained in such service areas. Each participating health maintenance organization shall not be required to offer enrollment in every service area as a condition to participation in the State Account,
- b. not require participating health maintenance organizations to offer a Medicare supplement plan; provided, however, any participating health maintenance organization that offers a Medicare supplement plan to other entities within this state shall be required to offer a Medicare supplement plan,
- c. require participating health maintenance organizations to meet the standardized benefit plan as required by the Board; provided, however, participating health maintenance organizations may offer enhancements in an effort to make their plans more attractive and competitive, and
- d. ensure that all premiums collected are paid to participating health maintenance organizations within sixty (60) calendar days of receipt.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

For the plan year beginning January 1, 2004, and for each year thereafter, it shall be the fiduciary responsibility of the State and Education Employees Group Insurance Board to ensure that participants have the option to choose which vision plan best meets their individual needs by offering every vision plan that notifies the State and Education Employees Group Insurance Board of their

desire to participate no later than August 15 of each year and meets or exceeds the following criteria:

1. Has in place a statewide network of at least one hundred (100) providers;
2. Has operated in Oklahoma for at least five (5) years; and
3. Is licensed by the Insurance Department, certified by the State Department of Health, or licensed as a third-party administrator by the Insurance Department.

Any administrative fees imposed by the State and Education Employees Group Insurance Board shall be applied equally to all qualified vision plans. There shall be no additional requirements imposed on a vision plan other than the proper licensing or certification by the appropriate state agency.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1330.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Employees Benefits Council shall hereby be abolished effective January 1, 2004. All powers significant administrative functions and duties not already being performed by the State and Education Employees Group Insurance Board shall be transferred to the State and Education Employees Group Insurance Board effective January 1, 2004. All remaining unexpended funds, property, records, and outstanding financial obligations shall be transferred to the State and Education Employees Group Insurance Board effective January 1, 2004.

The State and Education Employees Group Insurance Board shall be responsible for identifying all significant responsibilities not duplicated between the agencies and identifying those positions at the Oklahoma State Employees Benefits Council involved in performance of these unique functions. The results of this determination shall be completed no later than November 1, 2003, and the results of this study forwarded to the Office of Personnel

Management. The Board shall use the study to help determine which employees of the Council shall be transferred to the Board. The Board shall notify all employees of the Council, by December 1, 2003, of whether or not such employees will be transferred to the Board. Those employees of the Council who are not transferred to the Board and who are on pay status as of December 31, 2003, shall be paid severance benefits as provided by the Oklahoma Personnel Act and the Merit System of Personnel Administration Rules. Severance benefits shall be paid out of such funds of the Council available as of December 31, 2003. Such employees eligible for severance benefits pursuant to this section shall retain priority reemployment rights in accordance with the Oklahoma Personnel Act.

Those positions identified as unique essential functions shall be transferred to the State and Education Employees Group Insurance Board at the same job level and rate of pay as they received as of December 31, 2003, with no lapse of benefits.

SECTION 15. REPEALER 74 O.S. 2001, Sections 1362, 1363, 1364, 1365, as amended by Section 5, Chapter 196 O.S.L. 2002, 1365, as amended by Section 9, Chapter 439, O.S.L. 2002, 1366, Section 10, Chapter 439, O.S.L. 2002, Section 3, Chapter 489, O.S.L. 2002, 1368, 1369, 1370, 1371, 1372, 1373, and Section 1, Chapter 501, O.S.L. 2002 (74 O.S. Supp. 2002, Sections 1365, 1366.1, 1366.2 and 1374), are hereby repealed.

SECTION 16. Sections 1 through 13 and Section 15 of this act shall become effective January 1, 2004.

SECTION 17. Section 14 of this act shall become effective July 1, 2003.

SECTION 18. 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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