ENROLLED SENATE
BILL NO. 1601

By: Eason McIntyre and Hobson of the Senate

and

Liotta, Bingman, Liebmann, Rousselot, Billy, Hyman, Jackson, Kiesel, Roan, Shoemake, Terrill, Walker, Worthen, Askins, Blackburn, Covey, Deutschendorf, Dorman, Hilliard, Pruett, Sherrer of the House

An Act relating to employee benefits; amending 74 O.S, 2001, Sections 1303, as amended by Section 1, Chapter 354, O.S.L. 2004, 1304, as last amended by Section 1, Chapter 478, O.S.L. 2005, 1306, as last amended by Section 85 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th Oklahoma Legislature, 1321, as last amended by Section 4, Chapter 198, O.S.L. 2005, 1344, as amended by Section 1, Chapter 215, O.S.L. 2005, Section 2, Chapter 215, O.S.L. 2005, 1371, as last amended by Section 1, Chapter 414, O.S.L. 2004) and Section 1, Chapter 501, O.S.L. 2002, as last amended by Section 1, Chapter 310, O.S.L. 2004 (74.O.S. Supp. 2005, Sections 1303, 1304, 1321, 1344, 1344.1, 1371 and 1374), which relate to the State Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council; modifying definition, allowing certain individual to be appointed as an alternate to the grievance panel; updating reference to agency granting a certificate of authority to a Health Maintenance Organization in this state; blending rates for active employees and retirees under sixty-five years of age; allowing certain dependents to remain covered under the State and Education Employees Group Insurance Act; clarifying type of employee; modifying length of time of required notice of certain meetings by agencies to employees; increasing amount of time required to allow employees to attend certain meetings; updating reference; eliminating annual election for vision plans; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 1303, as amended by Section 1, Chapter 345, O.S.L. 2004 (74 O.S. Supp. 2005, 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)~~ twenty-three (23) 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)~~ twenty-three (23) 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 to be provided by the State of Oklahoma, and the 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 who elects to insure the employee's eligible dependents. Premiums for the dependent life insurance shall be paid wholly by the employee.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 1304, as last amended by Section 1, Chapter 478, O.S.L. 2005 (74 O.S. Supp. 2005, 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 Accountancy Board 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. <u>At the</u>

Governor's discretion, one or more qualified individuals may also be appointed as an alternate to serve on the grievance panel in the event the Governor's primary appointee becomes unable to serve.

(9) The Board shall at its first meeting elect one of its members as chair. The chair 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 Board may contract with a pay-for-performance program provider. The contract shall be with a group practice of a medical school with at least three hundred fifty providers in its panel for a statistically significant demonstration project among employee enrollees that select to participate in the program. The purpose of the program is to test a program's value proposition that offers financial incentives to both the health care provider and the patient for incorporating evidence-based medicine guidelines and information therapy prescriptions in the rendering and utilizing of health care. This program must offer the health care provider the flexibility to use the health care provider's clinical judgment to adhere to or deviate from the program's guidelines and still receive a financial incentive as long as the health care provider prescribes information therapy to the patient. The program shall offer a financial reward to the patient for responding to the information therapy prescription by demonstrating the patient's understanding of the patient's health condition, by demonstrating adherence to recommended care, and by judging the quality of care given to the patient against these guidelines. The program shall be offered and administered through an Internet application. This demonstration project shall collect and analyze data over a period of two (2) years in order to determine its effectiveness.

(14) The State and Education Employees Group Insurance Board may enter into a contract with out-of-state providers in connection

with any PPO or hospital or medical network plan which shall include, but not be limited to, special care facilities and hospitals outside the borders of the State of Oklahoma. The contract for out-of-state providers shall be identical to the in-state provider contracts. 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.

(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 3. AMENDATORY 74 O.S. 2001, Section 1306, as last amended by Section 85 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th Oklahoma Legislature 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 and the State Employees Flexible Benefits Act, 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 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, 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~~ granted a certificate of authority by the ~~Department of Health~~ Insurance Commissioner pursuant to Sections ~~2501~~ 6901 through ~~2510~~ 6951 of Title ~~63~~ 36 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. The Board may also select and contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the Board. However, if the Board chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan.

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~~ January 1, 2007, 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~~ to be equal to the premium for retirees under sixty-five (65) years of age;

11. 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. 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. 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. 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. The Board shall have the authority to determine all rates and life, dental and health benefits. 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~~ Effective for the plan year beginning January 1, 2007, and for each plan year thereafter, in setting health insurance premiums for active employees and retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees ~~at a maximum of Ninety Dollars ($90.00) less than~~ to be equal to the monthly premium for retirees under sixty-five (65) years of age;

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;

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

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;

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;

20. Beginning with the plan year which begins on January 1, 2006, the Board shall select and contract with one or more providers to offer a group TRICARE Supplement product to eligible employees who are eligible TRICARE beneficiaries. Any membership dues required to participate in a group TRICARE Supplement product offered pursuant to this paragraph shall be paid by the employee. As used in this paragraph, "TRICARE" means the Department of Defense health care program for active duty and retired uniform service members and their families;

21. 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; and

22. 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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1309.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Any dependent shall be allowed to remain covered as a dependent under the State and Education Employees Group Insurance Act up to the age of twenty-five (25) years if the dependent:

1. Is covered as an unmarried dependent under the State and Education Employees Group Insurance Act on the day immediately preceding the effective date of this act;

2. Remains unmarried and is over the age of twenty-two (22) years and under the age of twenty-five (25) years;

3. Is dependent upon the employee for support and 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

4. Has no break in coverage under the State and Education Employees Group Insurance Act from the age of twenty-three (23) years up to the age of twenty-five (25) years.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 1321, as last amended by Section 4, Chapter 198, O.S.L. 2005 (74 O.S. Supp. 2005, Section 1321), is amended to read as follows:

Section 1321. A. The Board shall have the authority to determine all rates and life, dental and health benefits. All rates shall be compiled in a comprehensive Schedule of Benefits. The Schedule of Benefits shall be available for inspection during regular business hours at the office of the State and Education Employees Group Insurance Board. The Board shall have the authority to annually adjust the rates and benefits based on claim experience.

B. The premiums for such insurance plans offered for the next plan year shall be established as follows:

1. For ~~current~~ active employees and their dependents, the Board's premium determination shall be made no later than the bid submission date for health maintenance organizations set by the Oklahoma State Employees Benefits Council, which shall be set in August no later than the third Friday of that month; and

2. For all other covered members and dependents, the Board's and the health maintenance organizations' premium determinations shall be no later than the fourth Friday of September.

C. The Board may approve a mid-year adjustment provided the need for an adjustment is substantiated by an actuarial determination or more current experience rating. The only publication or notice requirements that shall apply to the Schedule of Benefits shall be those requirements provided in the Oklahoma Open Meeting Act. It is the intent of the Legislature that the benefits provided not include cosmetic dental procedures except for certain orthodontic procedures as adopted by the Board.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 1344, as amended by Section 1, Chapter 215, O.S.L. 2005 (74 O.S. Supp. 2005, Section 1344), is amended to read as follows:

Section 1344. A. The Board shall establish a flexible benefits plan. All state employers as defined in Section 1342 of this title shall offer the flexible benefits plan to employees.

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

1. Dependent health insurance pursuant to the provisions of Section 1309 of ~~Title 74 of the Oklahoma Statutes~~ this title;

2. Insurance premiums or retirement plan premiums or payments which are supplemental to insurance or retirement programs offered by the State of Oklahoma or which are paid for under salary adjustment agreements pursuant to the provisions of paragraph 1, 3

or 4 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes;

3. Dependent care;

4. Medical care as defined by the Board; or

5. All other eligible programs offered under Title 26, Section 125 et seq. of the Internal Revenue Code of the United States.

C. 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, 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.

D. The Administrator of the State and Education Employees Group Insurance Board with approval of the Board shall promulgate rules, regulations and procedures as necessary for implementation and administration of the flexible benefits plan.

E. The Administrator of the State and Education Employees Group Insurance Board under the direction of the Board shall contract with one or more private firms or organizations to administer the flexible benefits plan. The contract shall be made at no cost to any employee of the State of Oklahoma.

F. All employers shall begin offering the flexible benefits plan to employees not later than January 1, 1990.

G. No less than ~~fifteen (15)~~ thirty (30) working days prior to the annual deadline for making changes to state employees' benefit packages, all state agencies shall provide a one-day employee benefit informational meeting. Representatives of vendors that have an authorized payroll deduction for state employees pursuant to Section 7.10 of Title 62 of the Oklahoma Statutes or Section 1701 of this title shall be invited and encouraged to attend these meetings to provide benefit information and answer questions of state employees related to health, financial planning and other benefits. Agencies shall provide vendors with adequate space within which to meet with employees. Agencies shall provide adequate notice of the meetings to active and retired employees, and shall allow each active employee to spend at least ~~thirty (30)~~ sixty (60) minutes during the workday to attend the meetings. For those state government facilities that operate twenty-four (24) hours a day, vendors shall be allowed access to each shift.

SECTION 7. AMENDATORY Section 2, Chapter 215, O.S.L. 2005 (74 O.S. Supp. 2005, Section 1344.1), is amended to read as follows:

Section 1344.1 Materials from vendors that have an authorized payroll deduction for state employees pursuant to Section 7.10 of

Title 62 of the Oklahoma Statutes or Section 1701 of ~~Title 74 of the Oklahoma of the Oklahoma Statutes~~ this title shall be placed in the annual benefit enrollment materials provided to state employees and their dependents.

SECTION 8. AMENDATORY 74 O.S. 2001, Section 1371, as last amended by Section 1, Chapter 414, O.S.L. 2004 (74 O.S. Supp. 2005, 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~~ Effective for the plan year beginning January 1, 2007, and for each plan 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~~ to be equal to 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~~ Effective for the plan year beginning January 1, 2007, and for each plan 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~~ to be equal to 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.

I. 1. For the plan year ending December 31, 2004, employees covered or eligible to be covered under the State and Education Employees Group Insurance Act and the State Employees Flexible Benefits Act who are enrolled in a health maintenance organization offering a network in Oklahoma City, shall have the option of continuing care with a primary care physician for the remainder of the plan year if:

a. that primary care physician was part of a provider group that was offered to the individual at enrollment and later removed from the network of the health maintenance organization, for reasons other than for cause, and

b. the individual submits a request in writing to the health maintenance organization to continue to have access to the primary care physician.

2. The primary care physician selected by the individual shall be required to accept reimbursement for such health care services on a fee-for-service basis only. The fee-for-service shall be computed by the health maintenance organization based on the average of the other fee-for-service contracts of the health maintenance organization in the local community. The individual shall only be required to pay the primary care physician those co-payments, coinsurance and any applicable deductibles in accordance with the terms of the agreement between the employer and the health maintenance organization and the provider shall not balance bill the patient.

3. Any network offered in Oklahoma City that is terminated prior to July 1, 2004, shall notify the health maintenance organization, Oklahoma State Employees Benefits Council and State and Education Employees Group Insurance Board by June 11, 2004, of the network's intentions to continue providing primary care services as described in paragraph 2 of this subsection offered by the health maintenance organization to state and public employees.

SECTION 9. AMENDATORY Section 1, Chapter 501, O.S.L. 2002, as last amended by Section 1, Chapter 310, O.S.L. 2004 (74 O.S. Supp. 2005, Section 1374), is amended to read as follows:

Section 1374. For the plan year beginning January 1, 2005, and for each year thereafter, it shall be the fiduciary responsibility of the Oklahoma State Employees Benefits Council and 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 Employees Benefits Council and the State and Education Employees Group Insurance Board of their desire to participate no later than July 1 of each year and meets or exceeds the following criteria:

1. Has in place a statewide network of at least one hundred fifty providers. "Providers", for purposes of this section, means Optometrists (OD), Ophthalmologists (MD), and Ophthalmologists (DO) which shall be counted once regardless of the number of locations where they may practice. Optical shops and retail optical locations

shall not be listed as providers. The company offering the vision plan must have a direct relationship with each provider on its panel, and may not lease, borrow, or otherwise obtain use of a provider panel from another company. This would not prevent a company from offering their plan through one corporate entity and administering the plan or provider panel through another legal entity of the same organization. Providers must be actively engaged in providing the services offered under the vision plan they represent;

2. Has operated in Oklahoma for at least five (5) years;

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. Vision plans must be offered by the company administering the plan, not by an agent or third party. A company shall offer only one vision plan and rate schedule for each plan year;

4. Presents accurate product information in a reproducible format not to exceed two pages; and

5. ~~Requires anyone electing a vision plan to submit an annual election form thereby prohibiting default enrollment; and~~

~~6.~~ Vision plans must provide an examination, frames and lenses, and/or contact lenses and some form of indemnified payment to the contracted providers for each component of the benefits, i.e., the exam, frames and lenses and/or contact lenses. This does not eliminate discounted supplementary benefits under a qualified plan.

Any administrative fees imposed by the Oklahoma State Employees Benefits Council or 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 10. This act shall become effective July 1, 2006.

SECTION 11. 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.

Passed the Senate the 26th day of May, 2006.

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Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2006.

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Presiding Officer of the House
of Representatives