STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1414 By: Newport

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2001, Sections 1370, as last amended by Section 3, Chapter 405, O.S.L. 2004 and 1371, as last amended by Section 1, Chapter 414, O.S.L. 2004 (74 O.S. Supp. 2004, Sections 1370 and 1371), which relate to the Oklahoma State Employees Benefits Act; allowing a person not participating in benefit plan to receive flexible benefits; allowing certain elected officials not to participate in certain benefit plans; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 1370, as last amended by Section 3, Chapter 405, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1370), is amended to read as follows:

Section 1370. A. Subject to the requirement that a participant must elect the default benefits, the basic plan, is a member of the Legislature and opts not to participate, or is a person who has retired from a branch of the United States military and has been provided with health care through a federal plan and provides proof of this coverage and opts to not choose any benefits, flexible benefit dollars may be used to purchase any of the benefits offered by the Oklahoma State Employees Benefits Council under the flexible benefits plan. A participant who has provided proof of other coverage as described in this subsection shall not receive flexible benefit dollars if the person elects not to purchase any benefits. A member of the Legislature that opts not to participate shall receive the amount of flexible benefit dollars the person would have received if the person had elected to participate in the plan. The

amount will be taxable compensation of the person. Such taxable compensation will be paid in substantially equal amounts each pay period over the plan year. 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, excluding the point-of-service plans, the average monthly premiums of the dental plans, the monthly premium of the disability plan, and the monthly premium of the basic life insurance plan offered to state employees or the amount determined by the Council based on a formula for determining a participant's benefit credits consistent with the requirements of 26 U.S.C., Section 125(g)(2) and regulations thereunder; or

2. The greater of Two Hundred Twenty-four Dollars and sixty-nine cents ($224.69) per month or an amount equal to the sum of the average monthly premiums of all high option health insurance plans, excluding the point-of-service 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, excluding the point-of-service 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, excluding the point-of-service plans, 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, excluding the point-of-service plans, 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, excluding the point-of-service plans, 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, excluding the point-of-service plans, for coverage of a spouse and two or more children.

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

E. If a participant desires to buy benefits whose sum total of benefit prices is in excess of his or her flexible benefit allowance, the participant may elect to use pay conversion dollars to purchase such excess benefits. Pay conversion dollars may be

elected through a salary reduction agreement made pursuant to the election procedures of Section 1371 of this title. The elected amount shall be deducted from the participant's compensation in equal amounts each pay period over the plan year. On termination of employment during a plan year, a participant shall have no obligation to pay the participating employer any pay conversion dollars allocated to the portion of the plan year after the participant's termination of employment.

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

SECTION 2. AMENDATORY 74 O.S. 2001, Section 1371, as last amended by Section 1, Chapter 414, O.S.L. 2004 (74 O.S. Supp. 2004, Section 1371), is amended to read as follows:

Section 1371. A. All participants must purchase at least the basic plan unless the participant is <u>a person who is a member of the Legislature and opts not to participate or is</u> 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~~ ensure that the basic plan provides adequate coverage to all participants. All benefit plans, whether offered by the State and Education Employees Group Insurance Board, a health maintenance organization or other vendors shall meet the minimum requirements set by the Council for the basic plan.

B. The Board shall offer health, disability, life and dental coverage to all participants and their dependents. For health, dental, disability and life coverage, the Board shall offer plans at the basic benefit level established by the Council, and in addition, may offer benefit plans that provide an enhanced level of benefits. The Board shall be responsible for determining the plan design and the benefit price for the plans that they offer. In setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age.

Nothing in this subsection shall be construed as prohibiting the Board from offering additional medical plans, provided that any medical plan offered to participants shall meet or exceed the benefits provided in the medical portion of the basic plan.

C. In lieu of electing any of the preceding medical benefit plans, a participant may elect medical coverage by any health maintenance organization made available to participants by the Council. The benefit price of any health maintenance organization shall be determined on a competitive bid basis. Contracts for said plans shall not be subject to the provisions of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title. The Council shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded for flexible benefits plans. All plans offered by health maintenance organizations

meeting the bid requirements as determined by the Council shall be accepted. The Council shall have the authority to reject the bid or restrict enrollment in any health maintenance organization for which the Council determines the benefit price to be excessive. The Council shall have the authority to reject any plan that does not meet the bid requirements. All bidders shall submit along with their bid a notarized, sworn statement as provided by Section 85.22 of this title. In setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees at a maximum of Ninety Dollars ($90.00) less than the monthly premium for retirees under sixty-five (65) years of age.

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

E. Each employee of a participating employer who meets the eligibility requirements for participation in the flexible benefits plan shall make an annual election of benefits under the plan during an enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the Council, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year.

Each such employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the Council shall prescribe. Any such employee who fails to make a proper election under the plan shall, nevertheless, be a participant in the plan and shall be deemed to have purchased the default benefits described in this section.

F. The Council shall prescribe the forms that participants will be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

G. Any participant who, in the first year for which he or she is eligible to participate in the plan, fails to make a proper election under the plan in conformance with the procedures set forth in this section or as prescribed by the Council shall be deemed automatically to have purchased the default benefits. The default benefits shall be the same as the basic plan benefits. Any participant who, after having participated in the plan during the previous plan year, fails to make a proper election under the plan in conformance with the procedures set forth in this section or prescribed by the Council, shall be deemed automatically to have purchased the same benefits which the participant purchased in the immediately preceding plan year, except that the participant shall not be deemed to have elected coverage under the health care reimbursement account plan or the dependent care reimbursement account plan.

H. Benefit plan contracts with the Board, health maintenance organizations, and other third party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Council, based on generally accepted actuarial principles.

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 3. This act shall become effective November 1, 2005.

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