

1 ENGROSSED SENATE
2 BILL NO. 1895

By: Aldridge of the Senate

3 and

4 Peterson (Ron) of the House

5
6
7 [insurance - Home Office Credit Allotment Rate - health
8 benefit plan - codification - effective dates -
9 emergency]

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

12 SECTION 1. AMENDATORY 36 O.S. 2001, Section 625.1, as
13 amended by Section 2, Chapter 381, O.S.L. 2005 (36 O.S. Supp. 2007,
14 Section 625.1), is amended to read as follows:

15 Section 625.1 A. A foreign or alien insurer which is subject
16 to the tax imposed by Section 624 of this title shall be entitled to
17 a credit against said tax actually paid to and placed in the General
18 Revenue Fund of the state, not including any of said tax monies
19 placed in pension funds and not including any of said tax monies
20 placed in escrow, if, during the year for which the tax is being
21 assessed, the insurer or its affiliate maintained a regional home
22 office in this state in a building owned or leased by the insurer.
23 To receive a credit against the tax imposed for the year in which
24 the regional home office was established, said office must have been

1 maintained continuously from on or before August 1 of that year
2 through the last day of the calendar year. For succeeding years, an
3 insurer or its affiliate shall have maintained the regional home
4 office continuously from the first day of the calendar year for
5 which the tax is imposed through the last day of that calendar year.
6 ~~The credit shall be equal to~~ The amount to be apportioned to the
7 Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
8 Police Pension and Retirement System and the Law Enforcement
9 Retirement Fund shall be applied prior to the calculation of the
10 Home Office Credit. The amount of the Home Office Credit shall be
11 derived from amounts remaining after the apportionment to the
12 Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
13 Police Pension and Retirement System and the Law Enforcement
14 Retirement Fund. The Home Office Credit shall be calculated by
15 first applying a "Home Office Credit Allotment Rate" of forty-seven
16 percent (47%) to the gross premium tax owed by the insurer and then
17 determining the allowable credit by applying the following
18 percentages of the amount due after the credits authorized by
19 Sections 624.1 and 625 of this title have been deducted:

- 20 1. Fifteen percent (15%), if there are more than two hundred
21 full-time, year-round Oklahoma employees, but less than three
22 hundred full-time, year-round Oklahoma employees;

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1 2. Twenty-five percent (25%), if there are more than three
2 hundred full-time, year-round Oklahoma employees, but less than four
3 hundred full-time, year-round Oklahoma employees;

4 3. Thirty-five percent (35%), if there are more than four
5 hundred full-time, year-round Oklahoma employees, but less than five
6 hundred full-time, year-round Oklahoma employees; or

7 4. Fifty percent (50%), if there are five hundred or more full-
8 time, year-round Oklahoma employees.

9 B. A domestic insurer with four hundred or more full-time,
10 year-round Oklahoma employees which is subject to the tax imposed by
11 Section 624 of this title shall be entitled to a credit against said
12 tax actually paid to and placed in the General Revenue Fund of the
13 state, not including any of said tax monies placed in pension funds
14 and not including any of said tax monies placed in escrow, if,
15 during the year previous to the year for which the tax is being
16 assessed, the insurer or its affiliate maintained a regional home
17 office in this state in a building owned or leased by the insurer
18 and during the year for which the tax is being assessed, the insurer
19 establishes its home office in this state in a building owned or
20 leased by the insurer. To receive a credit against the tax imposed
21 for the year in which the home office was established, said office
22 must have been maintained continuously from on or before August 1 of
23 that year through the last day of the calendar year. For succeeding
24 years, an insurer shall have maintained the home office continuously

1 from the first day of the calendar year for which the tax is imposed
2 through the last day of that calendar year. Insurers who take
3 action before August 1, 2000, to establish their home office in this
4 state shall be entitled to a credit against the tax imposed on or
5 after January 1, 2001, which shall be in addition to the credit the
6 insurer is entitled to for that year. ~~The credit shall be equal to~~
7 The amount to be apportioned to the Oklahoma Firefighters Pension
8 and Retirement Fund, the Oklahoma Police Pension and Retirement
9 System and the Law Enforcement Retirement Fund shall be applied
10 prior to the calculation of the Home Office Credit. The amount of
11 the Home Office Credit shall be derived from amounts remaining after
12 the apportionment to the Oklahoma Firefighters Pension and
13 Retirement Fund, the Oklahoma Police Pension and Retirement System
14 and the Law Enforcement Retirement Fund. The Home Office Credit
15 shall be calculated by first applying a "Home Office Credit
16 Allotment Rate" of forty-seven percent (47%) to the gross premium
17 tax owed by the insurer and then determining the allowable credit by
18 applying the following percentages of the amount due after the
19 credits authorized by Sections 624.1 and 625 of this title have been
20 deducted:

- 21 1. Thirty-five percent (35%), if there are more than four
22 hundred full-time, year-round Oklahoma employees, but less than five
23 hundred full-time, year-round Oklahoma employees; or

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1 2. Fifty percent (50%), if there are five hundred or more full-
2 time, year-round Oklahoma employees.

3 C. A domestic insurer which is subject to the tax imposed by
4 Section 624 of this title shall be entitled to a credit against said
5 tax actually paid to and placed in the General Revenue Fund of the
6 state, not including any of said tax monies placed in pension funds
7 and not including any of said tax monies placed in escrow, if,
8 during the year for which the tax is being assessed, the insurer
9 maintained a regional home office in at least five ~~(5)~~ or more
10 counties in this state in buildings owned or leased by the insurer.
11 To receive a credit against the tax imposed for the year in which
12 the regional home offices were established, said offices must have
13 been maintained continuously from on or before August 1 of that year
14 through the last day of the calendar year. For succeeding years, an
15 insurer shall have maintained the regional home offices continuously
16 from the first day of the calendar year for which the tax is imposed
17 through the last day of that calendar year. ~~The credit shall be~~
18 ~~equal to~~ The amount to be apportioned to the Oklahoma Firefighters
19 Pension and Retirement Fund, the Oklahoma Police Pension and
20 Retirement System and the Law Enforcement Retirement Fund shall be
21 applied prior to the calculation of the Home Office Credit. The
22 amount of the Home Office Credit shall be derived from amounts
23 remaining after the apportionment to the Oklahoma Firefighters
24 Pension and Retirement Fund, the Oklahoma Police Pension and

1 Retirement System and the Law Enforcement Retirement Fund. The Home
2 Office Credit shall be calculated by first applying a "Home Office
3 Credit Allotment Rate" of forty-seven percent (47%) to the gross
4 premium tax owed by the insurer and then determining the allowable
5 credit by applying the percentage of the amount due after the
6 credits authorized by Sections 624.1 and 625 of this title have been
7 deducted as established in subsection A of this section.

8 D. Proof that an insurer qualifies for the credit authorized by
9 this section shall be on forms prescribed by the Insurance
10 Commissioner and shall be submitted to the Commissioner annually
11 with the report which is filed pursuant to Section 624 of the
12 Insurance Code.

13 E. The credit provided for in subsections A, B and C of this
14 section shall be based on the total number of Oklahoma employees in
15 the regional or home office when a group of insurers which are under
16 common management and control maintain a regional home office or
17 home office in this state in a building owned or leased by the group
18 of insurers. The credit provided for in subsections A, B and C of
19 this section may be allocated among the insurance company and the
20 insurance company affiliates at the discretion of the insurance
21 company on a per-insurance-company basis.

22 F. As used in this section:

23 1. "Regional home office" means an office transacting
24 insurance, as defined in Section 105 of this title, and performing

1 insurance company operations, which is defined as one or more or any
2 combination of the following functions and services performed in
3 connection with the development, sale, and administration of
4 products giving rise to receipts subject to a premium tax on
5 domestic and foreign insurance companies, or domestic or foreign
6 health care insurance corporations: actuarial, medical, legal,
7 investments, accounting, auditing, underwriting, policy issuance,
8 information, policyholder services, premium collection, claims,
9 advertising and publications, public relations, human resources,
10 marketing, sales office staff, training of sales and service
11 personnel, and clerical, managerial, and other support for any such
12 functions or services;

13 2. "Common management and control" means the possession, direct
14 or indirect, of the power to direct or cause the direction of the
15 management and policies of an insurer, whether through the ownership
16 of voting securities, by contract, or otherwise, unless the power is
17 executed by a person acting in an official capacity, performing
18 duties imposed and exercising authority granted because of the
19 person's position as an officer or employee of the insurer. Control
20 shall be presumed to exist if any person, directly or indirectly,
21 owns, controls, holds with the power to vote, or holds proxies
22 representing twenty-five percent (25%) or more of the voting
23 securities of the insurer;

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1 3. "Oklahoma employees" means persons who are employed in
2 Oklahoma after January 1, 2000, and who are common law employees of
3 an insurance company or its affiliate. Oklahoma employees do not
4 include independent contractors or any persons to the extent that
5 the compensation of that person is based on commissions;

6 4. "Insurance company" means any entity subject to a premium
7 tax on domestic and foreign insurance companies, or domestic or
8 foreign health care insurance corporations, including the attorney-
9 in-fact authorized by and acting for the subscribers of a reciprocal
10 insurer or inter-insurance exchange under powers of attorney. A
11 reciprocal and its attorney-in-fact shall be a single entity; and

12 5. "Home office" means the executive offices of an insurance
13 company which is domiciled in this state.

14 G. Each insurer or insurance group requesting a credit under
15 this section shall certify by affidavit, approved as to form by the
16 Commissioner, that the insurer has met all of the qualifications
17 required by this section and is authorized to a credit against the
18 premium tax which actually shall be paid to, and placed in the
19 General Revenue Fund of the state, exclusive of any amounts of the
20 tax which shall be credited to pension funds pursuant to law and
21 exclusive of any amounts which shall be placed into escrow. The
22 Commissioner may do an examination for the sole purpose of
23 certifying that all requirements of this section are being met by
24 the insurer requesting to obtain any credits against premium tax.

1 H. For the fiscal year beginning July 1, 2006, and for each
2 fiscal year thereafter, and notwithstanding any other provisions of
3 Title 36 of the Oklahoma Statutes or any other provision of law
4 governing the order in which the credit authorized by this section
5 is to be deducted from the liability of the company claiming such
6 credit to the contrary, the credit authorized by this section shall
7 be deducted from the insurance premium tax liability of the company
8 claiming such credit prior to the deduction of any other credits
9 that may be claimed against such liability.

10 SECTION 2. Section 3 of this act shall be known and may be
11 cited as "Nick's Law".

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6060.4a of Title 36, unless
14 there is created a duplication in numbering, reads as follows:

15 A. Any individual or group health benefit plan, including the
16 State and Education Employees Group Health Insurance Plan, that is
17 offered, issued, or renewed in this state on or after January 1,
18 2009, shall provide coverage for the screening, diagnosis, testing
19 and treatment of an autistic spectrum disorder. Coverage provided
20 under this section is limited to generally recognized services and
21 treatments that are prescribed by the insured individual's treating
22 physician in accordance with a treatment plan.

23 B. The coverage required under this section shall not be
24 subject to dollar limits, visit limitations, deductibles or

1 coinsurance provisions that are less favorable to an insured
2 individual than the dollar limits, deductibles, or coinsurance
3 provisions that apply to physical illness generally under the health
4 benefit plan. Coverage of services may be subject to other general
5 exclusions and limitations of the health benefit plan, including,
6 but not limited to:

- 7 1. The coordination of benefits;
- 8 2. Participating provider requirements;
- 9 3. Services provided by family or household member
10 restrictions;
- 11 4. Eligibility; and
- 12 5. Appeals processes.

13 C. The treatment plan required under subsection A shall include
14 all elements necessary for the insurer to appropriately pay claims.
15 These elements shall include, but not be limited to:

- 16 1. A diagnosis;
- 17 2. Proposed treatment or treatments by type, frequency and
18 duration;
- 19 3. The anticipated outcomes stated as goals;
- 20 4. The frequency by which the treatment plan will be updated;
- 21 and
- 22 5. The treating physician's signature.

23 The insurer shall have the right to request an updated treatment
24 plan not more than once every six (6) months from the treating

1 physician to review medical necessity, unless the insurer and the
2 provider agree that a more frequent review is necessary due to
3 emerging clinical circumstances.

4 D. A diagnosis of an autistic spectrum disorder by a licensed
5 physician board certified therapist shall be required to be eligible
6 for benefits and coverage under this section. The prescribing
7 medical practitioner must be:

8 1. Licensed, certified or registered by an appropriate agency
9 of the state of Oklahoma: or

10 2. One whose professional credential is recognized and accepted
11 by an appropriate agency of the United States: or

12 3. One who is certified as a provider under the TRICARE
13 military health system.

14 The benefits and coverage provided under this section shall be
15 provided to any eligible person less than twenty-one (21) years of
16 age.

17 E. The insurer shall provide coverage for all therapies,
18 treatments, diagnoses and testing, medicines, special diets, and
19 supplements prescribed by a licensed physician or board certified
20 therapist, including but not limited to coverage for behavioral
21 therapy.

22 F. Coverage for behavioral therapy shall be subject to a
23 maximum benefit of Seventy-five-Thousand-Dollars (\$75,000.00) per
24 year.

1 G. An insurer shall not deny or refuse to issue coverage on,
2 refuse to contract with, refuse to renew, refuse to reissue, or
3 otherwise terminate or restrict coverage on an individual under an
4 insurance policy solely because the individual is diagnosed with an
5 autistic spectrum disorder.

6 H. This act shall not apply to limited benefits policies,
7 including, but not limited to:

- 8 1. Accident-only policies;
- 9 2. Specified disease policies;
- 10 3. Hospital indemnity policies;
- 11 4. Medicare supplement policies; or
- 12 5. Long-term care policies.

13 I. 1. For purposes of this section, "autistic spectrum
14 disorder" means a neurological disorder that is marked by severe
15 impairment in social interaction, communication, and imaginative
16 play, with onset generally during the first three (3) years of life
17 and is included in a group of disorders known as autism spectrum
18 disorders;

19 2. "Autism spectrum disorder" means any of the pervasive
20 developmental disorders as defined by the most recent edition of the
21 Diagnostic and Statistical Manual of the Mental Disorders (DSM)
22 including Autistic Disorder, Asperger's Disorder, and Pervasive
23 Developmental Disorder not otherwise specified (NOS), Rett Disorder,
24 and Childhood Degenerative Disorder; and

1 3. "Neurobiological disorder" means an illness of the nervous
2 system caused by genetic, metabolic, or other biological factors.

3 SECTION 4. Section 1 of this act shall become effective July 1,
4 2008.

5 SECTION 5. Section 3 of this act shall become effective
6 November 1, 2008.

7 SECTION 6. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

11 Passed the Senate the 10th day of March, 2008.

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Presiding Officer of the Senate

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15 Passed the House of Representatives the ____ day of _____,
16 2008.

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Presiding Officer of the House
of Representatives

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