

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1497

By: Brown

4
5
6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.
8 2001, Section 1365, as last amended by Section 2,
9 Chapter 450, O.S.L. 2005 (74 O.S. Supp. 2007, Section
10 1365), which relates to the Oklahoma State Employees
11 Benefits Council; updating reference to agency
12 granting a certificate of authority to a Health
13 Maintenance Organization in this state; providing an
14 effective date; and declaring an emergency.

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

16 SECTION 1. AMENDATORY 74 O.S. 2001, Section 1365, as
17 last amended by Section 2, Chapter 450, O.S.L. 2005 (74 O.S. Supp.
18 2007, Section 1365), is amended to read as follows:

19 Section 1365. A. The Oklahoma State Employees Benefits Council
20 shall have the following duties, responsibilities and authority with
21 respect to the administration of the plan:

22 1. To construe and interpret the plan, and decide all questions
23 of eligibility in accordance with this act and the Code;

24 2. To select those benefits which shall be made available to
participants under the plan, according to this act, and other
applicable laws and rules;

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

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

5 5. To prepare and distribute information communicating and
6 explaining the plan to participating employers and participants.

7 The State and Education Employees Group Insurance Board, Health
8 Maintenance Organizations, or other third-party insurance vendors
9 may be directly or indirectly involved in the distribution of
10 communicated information to participating state agency employers and
11 state employee participants subject to the following conditions:

12 a. the Council shall verify all marketing and
13 communications information for factual accuracy prior
14 to distribution,

15 b. the Board or vendors shall provide timely notice of
16 any marketing, communications, or distribution plans
17 to the Council and shall coordinate the scheduling of
18 any group presentations with the Council, and

19 c. the Board or vendors shall file a brief summary with
20 the Council outlining the results following any
21 marketing and communications activities;

22 6. To receive from participating employers and participants
23 such information as shall be necessary for the proper administration
24 of the plan, and any of the benefits offered thereunder;

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

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

6 9. To appoint an executive director who shall serve at the
7 pleasure of the Council. The executive director shall employ or
8 retain such persons in accordance with this act and the requirements
9 of other applicable law, including but not limited to actuaries and
10 certified public accountants, as he or she deems appropriate to
11 perform such duties as may from time to time be required under this
12 act and to render advice upon request with regard to any matters
13 arising under the plan subject to the approval of the Council. The
14 executive director shall have not less than seven (7) years of group
15 insurance administration experience on a senior managerial level or
16 not less than three (3) years of flexible benefits experience on a
17 senior managerial level. Any actuary or certified public accountant
18 employed or retained under contract by the Council shall have not
19 less than three (3) years' experience in group insurance or employee
20 benefits administration. The compensation of all persons employed
21 or retained by the Council and all other expenses of the Council
22 shall be paid at such rates and in such amounts as the Council shall
23 approve, subject to the provisions of applicable law;

24

1 10. To negotiate for best and final offer through competitive
2 negotiation and contract with federally qualified health maintenance
3 organizations under the provisions of 42 U.S.C., Section 300e et
4 seq. or with Health Maintenance Organizations ~~licensed~~ granted a
5 certificate of authority by the ~~State Department of Health Insurance~~
6 Commissioner pursuant to Sections ~~2501~~ 6901 through ~~2510~~ 6951 of
7 Title ~~63~~ 36 of the Oklahoma Statutes for consideration by
8 participants as an alternative to the health plans offered by the
9 Board, and to transfer to the health maintenance organizations such
10 funds as may be approved for a participant electing health
11 maintenance organization alternative services. The Council may also
12 select and contract with a vendor to offer a point-of-service plan.
13 An HMO may offer coverage through a point-of-service plan, subject
14 to the guidelines established by the Council. However, if the
15 Council chooses to offer a point-of-service plan, then a vendor that
16 offers both an HMO plan and a point-of-service plan may choose to
17 offer only its point-of-service plan in lieu of offering its HMO
18 plan.

19 The Oklahoma State Employees Benefits Council may, however,
20 renegotiate rates with successful bidders after contracts have been
21 awarded if there is an extraordinary circumstance. An extraordinary
22 circumstance shall be limited to insolvency of a participating
23 health maintenance organization or point-of-service plan,
24 dissolution of a participating health maintenance organization or

1 point-of-service plan or withdrawal of another participating health
2 maintenance organization or point-of-service plan at any time during
3 the calendar year. Nothing in this section of law shall be
4 construed to permit either party to unilaterally alter the terms of
5 the contract;

6 11. To retain as confidential information the initial Request
7 For Proposal offers as well as any subsequent bid offers made by the
8 health plans prior to final contract awards as a part of the best
9 and final offer negotiations process for the benefit plan;

10 12. To promulgate administrative rules for the competitive
11 negotiation process;

12 13. To require vendors offering coverage through the Council,
13 including the Board, to provide such enrollment and claims data as
14 is determined by the Council. The Oklahoma State Employees Benefits
15 Council with the cooperation of the Department of Central Services
16 acting pursuant to Section 85.1 et seq. of this title, shall be
17 authorized to retain as confidential, any proprietary information
18 submitted in response to the Council's Request For Proposal.
19 Provided, however, that any such information requested by the
20 Council from the vendors shall only be subject to the
21 confidentiality provision of this paragraph if it is clearly
22 designated in the Request For Proposal as being protected under this
23 provision. All requested information lacking such a designation in
24 the Request For Proposal shall be subject to Section 24A.1 et seq.

1 of Title 51 of the Oklahoma Statutes. From health maintenance
2 organizations, data provided shall include the current Health Plan
3 Employer Data and Information Set (HEDIS);

4 14. To purchase any insurance deemed necessary for providing
5 benefits under the plan including indemnity dental plans, provided
6 that the only indemnity health plan selected by the Council shall be
7 the indemnity plan offered by the Board, and to transfer to the
8 Board such funds as may be approved for a participant electing a
9 benefit plan offered by the Board. All indemnity dental plans,
10 including the one offered by the Oklahoma State and Education Group
11 Insurance Board, must meet or exceed the following requirements:

- 12 a. they shall have a statewide provider network,
- 13 b. they shall provide benefits which shall reimburse the
14 expense for the following types of dental procedures:
 - 15 (1) diagnostic,
 - 16 (2) preventative,
 - 17 (3) restorative,
 - 18 (4) endodontic,
 - 19 (5) periodontic,
 - 20 (6) prosthodontics,
 - 21 (7) oral surgery,
 - 22 (8) dental implants,
 - 23 (9) dental prosthetics, and
 - 24 (10) orthodontics, and

1 c. they shall provide an annual benefit of not less than
2 One Thousand Five Hundred Dollars (\$1,500.00) for all
3 services other than orthodontic services, and a
4 lifetime benefit of not less than One Thousand Five
5 Hundred Dollars (\$1,500.00) for orthodontic services;

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

8 16. To assess and collect reasonable fees from the Board, and
9 from such contracted health maintenance organizations and third
10 party insurance vendors to offset the costs of administration as
11 determined by the Council. The Council shall have the authority to
12 transfer income received pursuant to this subsection to the Board
13 for services provided by the Board;

14 17. To accept, modify or reject elections under the plan in
15 accordance with this act and the Code;

16 18. To promulgate election and claim forms to be used by
17 participants;

18 19. Beginning with the plan year which begins on January 1,
19 2006, to select and contract with one or more providers to offer a
20 group TRICARE Supplement product to eligible employees who are
21 eligible TRICARE beneficiaries. Any membership dues required to
22 participate in a group TRICARE Supplement product offered pursuant
23 to this paragraph shall be paid by the employee. As used in this
24 paragraph, "TRICARE" means the Department of Defense health care

1 program for active duty and retired uniform service members and
2 their families;

3 20. To take all steps deemed necessary to properly administer
4 the plan in accordance with this act and the requirements of other
5 applicable law; and

6 21. To manage, license or sell software developed for and
7 acquired by the Council, whether or not such software is patented or
8 copyrighted. The Council shall have the authority to license and
9 sell such software or any rights to such software without declaring
10 such property to be surplus. All proceeds from any such sale shall
11 be deposited in the Benefits Council Administration Revolving Fund
12 and used to defray the costs of administration.

13 B. The Council members shall discharge their duties as
14 fiduciaries with respect to the participants and their dependents of
15 the plan, and all fiduciaries shall be subject to the following
16 definitions and provisions:

17 1. A person or organization is a fiduciary with respect to the
18 Council to the extent that the person or organization:

19 a. exercises any discretionary authority or discretionary
20 control respecting administration or management of the
21 Council,

22 b. exercises any authority or control respecting
23 disposition of the assets of the Council,

24

1 c. renders advice for a fee or other compensation, direct
2 or indirect, with respect to any participant or
3 dependent benefits, monies or other property of the
4 Council, or has any authority or responsibility to do
5 so, or

6 d. has any discretionary authority or discretionary
7 responsibility in the administration of the Council;

8 2. The Council may procure insurance indemnifying the members
9 of the Council from personal loss or accountability from liability
10 resulting from a member's action or inaction as a member of the
11 Council;

12 3. Except for a breach of fiduciary obligation, a Council
13 member shall not be individually or personally responsible for any
14 action of the Council;

15 4. Any person who is a fiduciary with respect to the Council
16 shall be entitled to rely on representations made by participants,
17 participating employers, third party administrators and
18 beneficiaries with respect to age and other personal facts
19 concerning a participant or beneficiaries, unless the fiduciary
20 knows the representations to be false;

21 5. Each fiduciary shall discharge his or her duties and
22 responsibilities with respect to the Council and the plan solely in
23 the interest of the participants and beneficiaries of the plan
24 according to the terms hereof, for the exclusive purpose of

1 providing benefits to participants and their beneficiaries, with the
2 care, skill, prudence and diligence under the circumstances
3 prevailing from time to time that a prudent person acting in a like
4 capacity and familiar with such matters would use in the conduct of
5 an enterprise of like character and with like aims; and

6 6. The duties and responsibilities allocated to each fiduciary
7 by this act or by the Council shall be the several and not joint
8 responsibility of each, and no fiduciary shall be liable for the act
9 or omission of any other fiduciary unless:

10 a. by his or her failure to properly administer his or
11 her specific responsibility he or she enabled such
12 other person or organization to commit a breach of
13 fiduciary responsibility, or

14 b. he or she knowingly participates in, or knowingly
15 undertakes to conceal, an act or omission of another
16 person or organization, knowing such act or omission
17 to be a breach, or

18 c. having knowledge of the breach of another person or
19 organization, he or she fails to make reasonable
20 efforts under the circumstances to remedy said breach.

21 SECTION 2. This act shall become effective July 1, 2008.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby

24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 51-2-2416 ARE 1/22/2008 9:13:20 PM

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24