

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1358

By: Adelson

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6 AS INTRODUCED

7 An Act relating to insurance; directing certain  
8 insurers to adopt a physician performance reporting  
9 program; requiring and providing for certain ratings  
10 examiner; requiring certain review; directing certain  
11 results to be accessible; requiring certain report  
12 and recommendations; requiring certain measures;  
13 directing use of certain software; requiring certain  
14 description; requiring appropriate risk adjustment;  
15 providing for certain physician attribution;  
16 requiring certain disclosure; directing certain  
17 display; directing certain reporting to physicians;  
18 permitting certain corrections and additional  
19 information; requiring appeals process for  
20 physicians; requiring certain notice and explanation  
21 for physicians; prohibiting certain changes;  
22 requiring use of most current data in certain  
23 measures; providing for certain aggregated data;  
24 directing application of act; authorizing the  
Insurance Commissioner to promulgate rules; providing  
for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 6582.1 of Title 36, unless there  
is created a duplication in numbering, reads as follows:

On or before January 1, 2012, any insurer, as defined by Section  
103 of Title 36 of the Oklahoma Statutes, which offers individual or

1 group health benefit plans in this state shall adopt a physician  
2 performance reporting program to measure and tier physicians.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6582.2 of Title 36, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. To assure compliance with this act and to facilitate the  
7 collection and presentation to consumers and physicians of  
8 information about the insurer's processes and methodologies used in  
9 its physician performance reporting program, the insurer shall  
10 retain the services of an oversight monitor to be known as the  
11 ratings examiner.

12 B. The ratings examiner shall be a national standard-setting  
13 organization or shall be associated with a national standard-setting  
14 organization. For purposes of this subsection, a "national  
15 standard-setting organization" shall be national in scope,  
16 independent, and an Internal Revenue Code Section 501(c)(3)  
17 organization, and shall have existing standards and collection  
18 processes that comply with the transparency and accuracy  
19 requirements of this act.

20 C. The insurer shall maintain in good standing a review of its  
21 physician performance measures and reporting process by the ratings  
22 examiner. The review conducted by the ratings examiner shall  
23 encompass all of the requirements specified by this act. The  
24 insurer shall also obtain review by the ratings examiner of such

1 additional national standardized review processes as may be  
2 necessary to assure compliance with this act, including fully  
3 disclosing the insurer's procedures for consumer and physician  
4 grievance or appellate rights.

5 D. The insurer shall make the results of such review processes  
6 prominently accessible in all locations that describe the physician  
7 performance reporting program.

8 E. The ratings examiner shall report and make recommendations  
9 annually to the Insurance Commissioner regarding the details of the  
10 methodologies used and the extent to which they reflect national  
11 standards and compliance with this act.

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 6582.3 of Title 36, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. A physician performance reporting program shall only measure  
16 quality of performance and cost-efficiency.

17 B. In information for consumers and in public reporting,  
18 measures of cost-efficiency should be used in conjunction with  
19 measures of quality of performance. The insurer shall not conduct  
20 rankings based solely on cost-efficiency, but shall consider quality  
21 dimensions. Specifically, the insurer shall disclose to what extent  
22 the rankings and selection process are based on cost-efficiency and  
23 on quality. To the extent that the insurer presents a combined  
24 score or rating using cost-efficiency and quality, the insurer shall

1 disclose the specific measures for each category and their relative  
2 weight in determining a combined score.

3 C. In evaluating physician quality and cost-efficiency, the  
4 insurer shall seek to achieve the goals of safe, timely, effective,  
5 efficient, equitable and patient-centered care, to the extent  
6 possible. The insurer shall seek to include patient experience as a  
7 measure of patient-centeredness and shall use measures to determine  
8 quality of performance that are based on nationally recognized  
9 evidence-based and/or consensus-based clinical recommendations or  
10 guidelines. Where available, the insurer shall use measures  
11 endorsed by the National Quality Forum or other entities whose work  
12 in the area of physician quality performance is generally accepted  
13 in the health care industry. Where National Quality Forum-endorsed  
14 measures are unavailable, the insurer shall use measures endorsed by  
15 the Ambulatory Care Quality Alliance (AQA) and accreditors. Where  
16 National Quality Forum, AQA, or accreditors' measures are  
17 unavailable, or data to calculate the measures are unavailable to  
18 the insurer, measures shall be based on other nationally-recognized  
19 guidelines. The basis and data used, and its relative weight or  
20 relevance to the overall rating, shall be fully disclosed.

21 D. The insurer shall agree to support the development and use  
22 of any standardized quality and cost-efficiency measures which may  
23 be required by the Insurance Commissioner.

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1 E. In evaluating physician cost-efficiency performance, the  
2 insurer shall use appropriate and comprehensive episode-of-care  
3 software and shall ensure that any appropriate risk adjustment  
4 occurs pursuant to Section 5 of this act. In measuring physician  
5 cost-efficiency, the insurer shall compare physicians within the  
6 same specialty within the same appropriate geographical market. The  
7 basis and data used, and its relative weight or relevance to the  
8 overall rating, shall be fully disclosed.

9 SECTION 4. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 6582.4 of Title 36, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. The insurer shall describe the statistical basis for the  
13 number of patients for each disease state or specialty and use  
14 accurate, reliable and valid measurements of a physician's quality  
15 performance.

16 B. The insurer shall describe the statistical basis for the  
17 number of patient episodes of care and use accurate, reliable and  
18 valid measurements of a physician's cost-efficiency performance.

19 SECTION 5. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 6582.5 of Title 36, unless there  
21 is created a duplication in numbering, reads as follows:

22 In determining a physician's performance for quality and cost-  
23 efficiency, the insurer shall use appropriate risk adjustment to  
24 account for the characteristics of the physician's patient

1 population, such as case mix, severity of the patient's condition,  
2 co-morbidities, outlier episodes and other factors.

3 SECTION 6. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6582.6 of Title 36, unless there  
5 is created a duplication in numbering, reads as follows:

6 In deciding physician attribution for quality measurement, the  
7 insurer shall determine which physician or physicians should be held  
8 reasonably accountable for a patient's care and shall fully disclose  
9 the methodology used for such attribution.

10 SECTION 7. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6582.7 of Title 36, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. The insurer shall disclose to consumers:

14 1. Where its physician performance ratings are found;

15 2. That physician performance ratings are only a guide to  
16 choosing a physician and that such ratings have a risk of error and  
17 should not be the sole basis for selecting a doctor;

18 3. Information explaining the physician ranking system,  
19 including the basis upon which physician performance is measured,  
20 and the basis for determining that a physician is not currently  
21 rated due to insufficient data or a pending appeal;

22 4. Any limitations of the data the insurer uses to measure  
23 physician performance;

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1 5. How physicians are selected for inclusion or exclusion in a  
2 physician performance-reporting program;

3 6. Details on the factors and criteria used in the insurer's  
4 rating system, specifically its quality performance measures, cost-  
5 efficiency measures and other methodologies;

6 7. How the perspectives of consumers, consumer advocates,  
7 employers, labor, and/or physicians were incorporated in the  
8 development of the physician-reporting program; and

9 8. How the consumer may register a complaint with the insurer  
10 and the ratings examiner about the program.

11 B. The insurer shall directly and prominently display this  
12 information on its website and other appropriate locations in  
13 accordance with standards and a template to be provided by the  
14 ratings examiner.

15 SECTION 8. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6582.8 of Title 36, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. The insurer shall report the detailed data and methodologies  
19 to physicians in an independent and easily accessible manner,  
20 including measures and other criteria, that the insurer used to  
21 determine physician quality and cost-efficiency ratings and  
22 inclusion or exclusion in a physician performance reporting program.

23 B. The insurer shall also explain to physicians that they have  
24 the right to correct errors and seek review of data, quality and

1 cost-efficiency performance ratings and inclusion or exclusion from  
2 any physician performance-reporting program. The insurer shall also  
3 inform physicians that they may submit additional information,  
4 including information obtained in medical charts, for consideration.

5 C. The insurer shall also provide a reasonable, prompt, and  
6 transparent appeals process for physicians.

7 D. At least forty-five (45) days before making available to  
8 consumers any new or revised quality or cost-efficiency evaluations  
9 or any new or revised inclusions or exclusions from any program  
10 created pursuant to this act, the insurer shall provide physicians  
11 with:

12 1. Notice of the proposed change;

13 2. An explanation of and access to the data used for a  
14 particular physician;

15 3. Methodology and measures used to assess physicians,  
16 including attribution; and

17 4. An explanation of the physician's right to make corrections  
18 and an appeal.

19 E. If a physician makes a timely appeal, the insurer shall make  
20 no change in the physician's quality and cost-efficiency rankings or  
21 designation until the appeal is completed. The ratings examiner  
22 shall have oversight and review of the physician appeals process.

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1           SECTION 9.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6582.9 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. The insurer shall use the most current claims or other data  
5 to measure physician performance, consistent with the time period  
6 needed to attain adequate sample sizes and to comply with the  
7 requirements of this act. The insurer shall strive to ensure that  
8 the data it relies upon is accurate, including a consideration of  
9 whether some medical record verification is appropriate and  
10 necessary.

11           B. As part of its reporting to the ratings examiner, the  
12 insurer shall provide the ratings examiner a plan to use aggregated  
13 data, validated as appropriate, as a supplement to test its own  
14 claims data.

15           SECTION 10.           NEW LAW           A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6582.10 of Title 36, unless  
17 there is created a duplication in numbering, reads as follows:

18           This act shall apply to insurers which offer group hospital or  
19 medical insurance coverage plans, not-for-profit hospital or medical  
20 service or indemnity plans, prepaid health plans, health maintenance  
21 organization plans, preferred provider organization plans, the State  
22 and Education Employees Group Insurance Plan, coverage provided by a  
23 Multiple Employer Welfare Arrangement (MEWA), or any other analogous  
24 benefit arrangement. The act shall not apply to insurers or other

1 entities which only offer short-term, accident, fixed indemnity, or  
2 specified disease policies, disability income contracts, limited  
3 benefit or credit disability insurance, workers' compensation  
4 insurance coverage, state Medicaid program coverage, automobile  
5 medical payment insurance, or insurance under which benefits are  
6 payable with or without regard to fault and which are required by  
7 law to be contained in any liability insurance policy or equivalent  
8 self-insurance.

9 SECTION 11. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 6582.11 of Title 36, unless  
11 there is created a duplication in numbering, reads as follows:

12 The Insurance Commissioner may promulgate rules as necessary to  
13 implement the provisions of this act.

14 SECTION 12. This act shall become effective November 1, 2010.

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