

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 846

By: Crain

4
5
6 AS INTRODUCED

7 An Act relating to state employee benefits; amending
8 56 O.S. 2001, Section 1010.1, as last amended by
9 Section 1, Chapter 412, O.S.L. 2008 (56 O.S. Supp.
10 2008, Section 1010.1), which relates to the premium
11 assistance program; expanding certain program for
12 specified persons; amending 74 O.S. 2001, Section
13 1371, as last amended by Section 6, Chapter 269,
O.S.L. 2007 (74 O.S. Supp. 2008, Section 1371), which
relates to election of benefit plans; allowing
certain state employees to participate in the premium
assistance program; specifying when the required
participation will become effective; providing an
effective date; and declaring an emergency.

14
15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 56 O.S. 2001, Section 1010.1, as
18 last amended by Section 1, Chapter 412, O.S.L. 2008 (56 O.S. Supp.
19 2008, Section 1010.1), is amended to read as follows:

20 Section 1010.1 A. Sections 1010.1 et seq. of this title shall
21 be known and may be cited as the "Oklahoma Medicaid Program Reform
22 Act of 2003".

23 B. Recognizing that many Oklahomans do not have health care
24 benefits or health care coverage, that many small businesses cannot

1 afford to provide health care benefits to their employees, and that,
2 under federal law, barriers exist to providing Medicaid benefits to
3 the uninsured, the Oklahoma Legislature hereby establishes
4 provisions to lower the number of uninsured, assist businesses in
5 their ability to afford health care benefits and coverage for their
6 employees, and eliminate barriers to providing health coverage to
7 eligible enrollees under federal law.

8 C. Unless otherwise provided by law, the Oklahoma Health Care
9 Authority shall provide coverage under the state Medicaid program to
10 children under the age of eighteen (18) years whose family incomes
11 do not exceed one hundred eighty-five percent (185%) of the federal
12 poverty level.

13 D. 1. The Authority is directed to apply for a waiver or
14 waivers to the Centers for Medicaid and Medicare Services (CMS) that
15 will accomplish the purposes outlined in subsection B of this
16 section. The Authority is further directed to negotiate with CMS to
17 include in the waiver authority provisions to:

- 18 a. increase access to health care for Oklahomans,
- 19 b. reform the Oklahoma Medicaid Program to promote
20 personal responsibility for health care services and
21 appropriate utilization of health care benefits
22 through the use of public-private cost sharing,
- 23 c. enable small employers, and/or employed, uninsured
24 adults with or without children to purchase employer-

1 sponsored, state-approved private, or state-sponsored
2 health care coverage through a state premium
3 assistance payment plan. If by January 1, 2012, the
4 Employer/Employee Partnership for Insurance Coverage
5 Premium Assistance Program is not consuming more than
6 seventy-five percent (75%) of its dedicated source of
7 funding, then the program will be expanded to include
8 parents of children eligible for Medicaid, and

9 d. develop flexible health care benefit packages based
10 upon patient need and cost.

11 2. The Authority may phase in any waiver or waivers it receives
12 based upon available funding.

13 3. The Authority is authorized to develop and implement a
14 premium assistance plan to assist small businesses and/or their
15 eligible employees to purchase employer-sponsored insurance or "buy-
16 in" to a state-sponsored benefit plan.

17 4. a. The Authority is authorized to seek from the Centers for
18 Medicare and Medicaid Services any waivers or amendments
19 to existing waivers necessary to accomplish an expansion
20 of the premium assistance program to:

21 (1) include for-profit employers with two hundred fifty
22 employees or less up to any level supported by
23 existing funding resources; and
24

1 (2) include not-for-profit employers with five hundred
2 employees or less up to any level supported by
3 existing funding resources.

4 b. Foster parents employed by employers with greater than
5 two hundred fifty employees shall be exempt from the
6 qualifying employer requirement provided for in this
7 paragraph and shall be eligible to qualify for the
8 premium assistance program provided for in this section
9 if supported by existing funding.

10 E. For purposes of this paragraph, "for-profit employer" shall
11 mean an entity which is not exempt from taxation pursuant to the
12 provisions of Section 501(c)(3) of the Internal Revenue Code and
13 "not-for-profit employer" shall mean an entity which is exempt from
14 taxation pursuant to the provisions of Section 501(c)(3) of the
15 Internal Revenue Code.

16 F. The Authority is authorized to seek from the Centers for
17 Medicare and Medicaid Services any waivers or amendments to existing
18 waivers necessary to accomplish an extension of the premium
19 assistance program to include qualified employees whose family
20 income does not exceed two hundred fifty percent (250%) of the
21 federal poverty level, subject to the limit of federal financial
22 participation.

23 G. The Authority is authorized to seek from the Centers for
24 Medicare and Medicaid Services any waivers or amendments to existing

1 waivers necessary to accomplish an extension of the premium
2 assistance program to include state employees who have a household
3 income at or under two hundred fifty percent (250%) of the federal
4 poverty level. The flexible benefit allowance provided in Section
5 1370 of Title 74 of the Oklahoma Statutes shall be used to cover the
6 employee's portion of the premium.

7 H. 1. There is hereby created in the State Treasury a
8 revolving fund to be designated the "Health Employee and Economy
9 Improvement Act (HEEIA) Revolving Fund".

10 2. The fund shall be a continuing fund, not subject to fiscal
11 year limitations, and shall consist of:

- 12 a. all monies received by the Authority pursuant to this
13 section and otherwise specified or authorized by law,
- 14 b. monies received by the Authority due to federal
15 financial participation pursuant to Title XIX of the
16 Social Security Act, and
- 17 c. interest attributable to investment of money in the
18 fund.

19 3. All monies accruing to the credit of the fund are hereby
20 appropriated and shall be budgeted and expended by the Authority to
21 implement a premium assistance plan, unless otherwise provided by
22 law.

23

24

1 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1371, as
2 last amended by Section 6, Chapter 269, O.S.L. 2007 (74 O.S. Supp.
3 2008, Section 1371), is amended to read as follows:

4 Section 1371. A. All Except as otherwise provided by
5 subsection D of this section, all participants must purchase at
6 least the basic plan unless, to the extent that it is consistent
7 with federal law, the participant is a person who has retired from a
8 branch of the United States military and has been provided with
9 health coverage through a federal plan and that participant provides
10 proof of that coverage. On or before January 1 of the plan year
11 beginning July 1, 2001, and July 1 of any plan year beginning after
12 January 1, 2002, the Oklahoma State Employees Benefits Council shall
13 design the basic plan for the next plan year to insure that the
14 basic plan provides adequate coverage to all participants. All
15 benefit plans, whether offered by the State and Education Employees
16 Group Insurance Board, a health maintenance organization or other
17 vendors shall meet the minimum requirements set by the Council for
18 the basic plan.

19 B. The Board shall offer health, disability, life and dental
20 coverage to all participants and their dependents. For health,
21 dental, disability and life coverage, the Board shall offer plans at
22 the basic benefit level established by the Council, and in addition,
23 may offer benefit plans that provide an enhanced level of benefits.
24 The Board shall be responsible for determining the plan design and

1 the benefit price for the plans that they offer. Effective for the
2 plan year beginning January 1, 2007, and for each plan year
3 thereafter, in setting health insurance premiums for active
4 employees and for retirees under sixty-five (65) years of age, the
5 Board shall set the monthly premium for active employees to be equal
6 to the monthly premium for retirees under sixty-five (65) years of
7 age.

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

12 C. In lieu of electing any of the preceding medical benefit
13 plans, a participant may elect medical coverage by any health
14 maintenance organization made available to participants by the
15 Council. The benefit price of any health maintenance organization
16 shall be determined on a competitive bid basis. Contracts for said
17 plans shall not be subject to the provisions of the Oklahoma Central
18 Purchasing Act, Section 85.1 et seq. of this title. The Council
19 shall promulgate rules establishing appropriate competitive bidding
20 criteria and procedures for contracts awarded for flexible benefits
21 plans. All plans offered by health maintenance organizations
22 meeting the bid requirements as determined by the Council shall be
23 accepted. The Council shall have the authority to reject the bid or
24 restrict enrollment in any health maintenance organization for which

1 the Council determines the benefit price to be excessive. The
2 Council shall have the authority to reject any plan that does not
3 meet the bid requirements. All bidders shall submit along with
4 their bid a notarized, sworn statement as provided by Section 85.22
5 of this title. Effective for the plan year beginning January 1,
6 2007, and for each plan year thereafter, in setting health insurance
7 premiums for active employees and for retirees under sixty-five (65)
8 years of age, HMOs, self-insured organizations and prepaid plans
9 shall set the monthly premium for active employees to be equal to
10 the monthly premium for retirees under sixty-five (65) years of age.

11 D. In lieu of electing any of the medical benefit plans
12 provided for in subsections B or C of this section, any participant
13 whose household income is at or under two hundred fifty percent
14 (250%) of the federal poverty level may participate in the premium
15 assistance program authorized in Section 1010.1 of Title 56 of the
16 Oklahoma Statutes. The provisions of this subsection shall become
17 effective for the next plan year after the waiver required by
18 subsection G of Section 1010.1 of Title 56 of the Oklahoma Statutes
19 is granted from the Centers for Medicare and Medicaid Services.

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

23 ~~E.~~ F. Each employee of a participating employer who meets the
24 eligibility requirements for participation in the flexible benefits

1 plan shall make an annual election of benefits under the plan during
2 an enrollment period to be held prior to the beginning of each plan
3 year. The enrollment period dates will be determined annually and
4 will be announced by the Council, providing the enrollment period
5 shall end no later than thirty (30) days before the beginning of the
6 plan year.

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

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

16 ~~G.~~ H. Any participant who, in the first year for which he or
17 she is eligible to participate in the plan, fails to make a proper
18 election under the plan in conformance with the procedures set forth
19 in this section or as prescribed by the Council shall be deemed
20 automatically to have purchased the default benefits. The default
21 benefits shall be the same as the basic plan benefits. Any
22 participant who, after having participated in the plan during the
23 previous plan year, fails to make a proper election under the plan
24 in conformance with the procedures set forth in this section or

1 prescribed by the Council, shall be deemed automatically to have
2 purchased the same benefits which the participant purchased in the
3 immediately preceding plan year, except that the participant shall
4 not be deemed to have elected coverage under the health care
5 reimbursement account plan or the dependent care reimbursement
6 account plan.

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

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

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

24

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

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

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

22 SECTION 3. This act shall become effective July 1, 2009.

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

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 52-1-815 ARE 3/6/2009 7:10:24 AM

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24